

COUNCIL MEETING

JULY 6, 2022

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Arryl Kaneshiro at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, July 6, 2022, at 8:42 a.m., after which the following Members answered the call of the roll:

Honorable Bernard P. Carvalho, Jr.
Honorable Mason K. Chock
Honorable Felicia Cowden
Honorable Bill DeCosta
Honorable Luke A. Evslin (*via remote technology*)
Honorable KipuKai Kuali'i
Honorable Arryl Kaneshiro

APPROVAL OF AGENDA.

Councilmember Kuali'i moved for approval of the agenda, as circulated, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony. Is there anyone in the audience or on Zoom wishing to testify? None.

There being no one present to provide testimony, the meeting proceeded as follows:

The motion for approval of the agenda, as circulated, was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. Next item.

MINUTES of the following meetings of the Council:

June 15, 2022 Council Meeting

June 15, 2022 Public Hearings re: Bill No. 2861, Bill No. 2862, Bill No. 2863, Bill No. 2864, Bill No. 2865, Bill No. 2866, and Bill No. 2867

Councilmember Kuali'i moved to approve the Minutes, as circulated, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony on this item. Is there anyone in the audience or on Zoom wishing to testify? None.

There being no one present to provide testimony, the meeting proceeded as follows:

Council Chair Kaneshiro: Are there any questions or discussion on this item from the Members?

The motion to approve the Minutes, as circulated, was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. Next item. We have testifiers who want to testify on C 2022-141. Can I get a motion to move C 2022-141 out of the Consent Calendar? Are there any questions or discussion on this item?

Councilmember Kualii moved to remove C 2022-141 from the Consent Calendar, seconded by Councilmember Carvalho, and unanimously carried.

CONSENT CALENDAR:

C 2022-140 Communication (06/03/2022) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee John P. Venardos to the Salary Commission – Term ending 12/31/2024.

C 2022-142 Communication (06/16/2022) from the Director of Finance, transmitting for Council information, Period 11 Financial Reports – Statement of Revenues, Statement of Expenditures and Encumbrances, Revenue Report, and Detailed Budget Report as of May 31, 2022, pursuant to Section 21 of Ordinance No. B-2021-877, relating to the Operating Budget of the County of Kaua'i for Fiscal Year 2021-2022.

C 2022-143 Communication (06/22/2022) from the Hawai'i State Association of Counties (HSAC) President, transmitting for Council consideration, HSAC's nomination of Councilmember KipuKai Kualii, County of Kaua'i, and Councilmember Tommy Waters, City and County of Honolulu, to serve on the Board of Directors for the National Association of Counties (NACo), and nominations of Councilmember Shane Sinenci, County of Maui, and Councilmember Sue Lee Loy, County of Hawai'i, to serve on the Board of Directors for the Western Interstate Region (WIR), pursuant to Section 5A and Section 5C of the Bylaws of the Hawai'i State Association of Counties, Inc.

Councilmember Kualii moved to receive C 2022-140, C 2022-142, and C 2022-143 for the record, seconded by Councilmember DeCosta.

Council Chair Kaneshiro: We received no written testimony on these items. Are there any questions or discussion from the Members?

The motion to receive C 2022-140, C 2022-142, and C 2022-143 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. Next item.

COMMUNICATIONS:

C 2022-141 Communication (06/08/2022) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Jerry Ornellas (Environmental) to the Planning Commission for a partial term ending 12/31/2022.

Councilmember Kualii moved to receive C 2022-141 for the record, seconded by Councilmember Carvalho.

JADE K. FOUNTAIN-TANIGAWA, County Clerk: We have two (2) registered speakers this morning. Mauna Kea Trask, followed by Lonnie Sykos.

Council Chair Kaneshiro: We received no written testimony on this item, I will suspend the rules. Mauna Kea, you can speak first. Mauna Kea, I believe you know the rules. You have three (3) minutes. The light will turn green, it will turn yellow when you have thirty (30) seconds left, and red when your three (3) minutes are up. If you need an additional three (3) minutes, we will go around the room to allow everyone their first three (3) minutes, and you can have an additional three (3) minutes. State your name for the record and you can begin.

There being no objections, the rules were suspended to take public testimony.

MAUNA KEA TRASK: Thank you, Chair. For the record, Mauna Kea Trask on behalf of myself. I wanted to speak today in favor of Jerry Ornellas. I think he is a great person. The Planning Commission needs Commissioners right now. There is a quorum issue and they are not at full capacity. I think it is good that the Office of the Mayor recognizes that environmentalists and farmers are not a separate group. I do not think anyone knows, appreciates, and understands the environment better than farmers and those engaged in agriculture. I think it is good that you are deconstructing silos and recognize that. I think Jerry will be a great Commissioner.

Council Chair Kaneshiro: Thank you. Next up is Lonnie. No? Is there anyone else in the audience or on Zoom wishing to testify on this item? Seeing none. I will call the meeting back to order. Are there any questions or discussion from the Members.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

The motion to receive C 2022-141 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. Next item

C 2022-144 Communication (06/06/2022) from the Managing Director, transmitting for Council consideration, A Bill For An Ordinance Adding A New Article To Chapter 15, Kaua'i County Code 1987, As Amended, Relating To Building And Construction Regulations.

Councilmember Kualii moved to receive C 2022-144 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received written testimony on this item. I will suspend the rules. Does anyone want to testify now on the communication and not wait for the Bill that will come up later? We can add your testimony to the Bill. I will open it up for that if anyone wants to testify on the communication for Bill No. 2873. Francis, did you want to testify now, or do want to wait until the end? I will suspend the rules. Francis, we will add this testimony to the actual Bill.

There being no objections, the rules were suspended to take public testimony.

FRANCIS DEGRACIA, JR.: Francis DeGracia, Jr., Field Representative, Hawai'i Regional Council of Carpenters, for the record. Thank you, Council Chair Kaneshiro, Council Vice Chair Chock, and Councilmembers, for the opportunity to say a few words concerning Proposed Draft Bill (No. 2873). For a while, the Carpenters Union has had concerns and firsthand experience with contractors cheating on construction projects on Kaua'i. This foul play cheats local workers out of work and pay, cheats County, State, and Federal Government out of taxes, and cheats owners out of quality work that may affect the health and safety of their project. The Carpenters Union is confident that Bill No. 2873 will help verify that contractors working on construction projects on Kaua'i are licensed contractors encouraging fair play. Thank you for your time and consideration of Bill No. 2873.

Council Chair Kaneshiro: Do you have a clarifying question, Councilmember Cowden?

Councilmember Cowden: Yes. When you are talking about "cheating," can you help me understand that more? Is this carpenters that could be hired here, but are being hired from somewhere else? Can you clarify "cheating," because that is a broad word.

Mr. DeGracia: Thank you. There are ongoing investigations and instances where we suspect that workers were not paid fairly. There are also instances where we are discovering that workers are not working legally.

Councilmember Cowden: Does that mean that they are not from this Country? What does that mean?

Mr. DeGracia: There could be instances where their pay does not reflect how they should be paid. Through investigation, which has not been confirmed, but we suspect instances where there could be workers from out of state, getting paid on a 1099, not being paid hourly, not being covered under health and medical, and are not being covered for health and safety.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Councilmember DeCosta, with a clarifying question.

Councilmember DeCosta: Hi. I want to thank you for bringing up the “cheating” explanation. I wanted to ask you, do we have something in place right now, either a County or State entity, that regulates people on the job who are cheating?

Mr. DeGracia: There are County and State agencies who regulate.

Councilmember DeCosta: Can you tell me a state agency that regulates this?

Mr. DeGracia: Department of Labor.

Councilmember DeCosta: Okay. How about the Department of Commerce the Consumer Affairs (DCCA)?

Mr. DeGracia: I am not totally familiar with the different agencies and mechanisms.

Councilmember DeCosta: We have something on the State level that should be looking into this, but we are now going to absorb this as a county entity to go on a jobsite and regulate this? Is that what you are asking?

Mr. DeGracia: I believe this Bill is more of a recordkeeping mechanism to hold those accountable and that they are going to do what they say they are going to do—that they are going to hire “X” subcontractor or contractor, and they are going to be performing the work on said project.

Councilmember DeCosta: Who is usually in charge of the small contractors? Is the General in charge?

Mr. DeGracia: The General is in charge.

Councilmember DeCosta: Right now, if there was illegal work going on, the General would be the person subject to investigation or in noncompliance if his/her license, correct?

Mr. DeGracia: As far as my knowledge, yes.

Councilmember DeCosta: Okay, thank you.

Council Chair Kaneshiro: Are there any further clarifying questions? If not, thank you, Francis. Next up, Lonnie.

LONNIE SYKOS: For the record, Lonnie Sykos. I do not have the text in front of me, but when I read through this, to answer your question for clarification. The State agencies lack the manpower, and they are not charged for going to every jobsite making sure everything is done correctly. There is a whole mechanism where people can report violations. What this does for the County is when a contractor—I do not know the appropriate term...has been convicted of doing something

wrong and they have a record of being fined or have a stop order or regulatory control placed upon them, currently, as the consumer and County, you do not know that occurred unless you go to the State and ask. What this does is it requires the contractors to self-report to the County if there is a disciplinary action against them, because that can influence whether or not they should be allowed to proceed with another project. This gives the County the ability to have authority over contractors who are currently in some type of regulatory violation, which you currently do not know. You only know if the contractor has a regulatory problem at the time he applies for the permit. This allows for if the contractor has a "ding" against them, it has to be self-reported and thus the County knows and it does not cause financial burden for the County to set up a new regulatory deal. The contractors will self-report if I understood the Bill correctly. I am for it, I think it is a great idea, it is a great consumer protection deal. The contractors may not like it because it means they need to self-report if there is discipline against them. For the consumers and County, this is great. Thank you.

Council Chair Kaneshiro: Is there anyone else in the audience or on Zoom wishing to testify? We have Chris, first?

CHRIS DELAUNAY, Pacific Resource Partnership (*via remote technology*): Aloha, we represent the Carpenter's Union and two hundred forty (240) contractors in the State of Hawai'i. Pacific Resource Partnership (PRP) supports the Proposed Draft Bill (No. 2873) relating to the building and construction regulations. PRP has been very active in supporting legislation that will help to create a level playing field for all contractors. Our compliance team has also been very active in ensuring that contractors are playing by the rules, paying appropriate wages, payroll taxes, insurance, safety, appropriate licensing, and other regulatory requirements. We find that unscrupulous contractors cut corners to gain a competitive advantage over law-abiding contractors. We owe it to our law-abiding contractors to hold unscrupulous contractors accountable. The proposed Bill will allow the Department to verify that contractors working on construction projects are licensed contractors. The Bill requires a permit holder to provide information to the Department to verify that licensed contractors are working on a permitted construction site. Currently, it could be permitted, but some of the contractors on the site may not be licensed. This verification is critical to ensuring a level playing field throughout Hawai'i's construction industry. We have seen a lot of this unlicensed activity occurring across the state on O'ahu, Kaua'i, Maui, and the Big Island. A lot of these people cut corners to get a competitive advantage over contractors who follow the law, and it is completely unfair. We saw a huge one with Maile Sky Court on O'ahu where there were unlicensed contracting. There were a lot of unpaid wages, and this made the news. You could probably look it up on Hawai'i News Now. There was a great article there. I think this is an appropriate step and it gives the County the ability to ensure that everyone on the job is licensed and it protects the consumer like the individual spoke to just a little bit ago. Thank you for this opportunity to testify. I appreciate it.

Council Chair Kaneshiro: Thank you, Chris. Are there any clarifying questions? Councilmember DeCosta.

Councilmember DeCosta: Currently we have the general contractor who applies for a permit, and we have a permit process with licensed plumbers and

electricians, because those are public safety issues if something goes wrong. What we are asking for is for every other entity on the jobsite to be licensed? Is that what I am hearing from you?

Mr. Delaunay: The contractors are supposed to be licensed. You are supposed to have licensed contractors doing the work. That is a consumer protection thing under Chapter 444 of the Hawai'i Revised Statutes (HRS). Basically, what the County is doing is collecting information to know who is on the job, what contractors and subcontractors are working on the job, and they can verify whether or not they are licensed.

Councilmember DeCosta: Are there any other counties across the state that are policing these non-licensed entities on the jobsite or is this something that only Kaua'i will be doing?

Mr. Delaunay: They should be ensuring that when you apply for a permit that the contractors applying are actually licensed, right? They should be ensuring that licensed contractors are working on the job. In terms of a law like this drafted in this manner, I think from what I understand is that this is new, and it is progressive. It is great and something we need. We need the County to get involved with helping to enforce laws and to ensure that people are playing by the rules. I think it is my understanding that this is a new approach that Kaua'i is taking.

Councilmember DeCosta: Thank you.

Mr. Delaunay: I hope I answered your question.

Council Chair Kaneshiro: Thank you, Chris. Next up we have Nathaniel.

NATHANIEL KINNEY, Hawai'i Regional Council of Carpenters (*via remote technology*): You have my written testimony. To go back to what some of the previous testifiers touched upon, this is merely a disclosure. It is not just about a disclosure about whether or not the contractor has a license. This is more about disclosure of who is going to be on the job and whether or not they violated Hawai'i law in the past. That is all this is doing. This is a disclosure Bill. All counties should be doing this. We should be understanding who is working on a job, how are they employed, et cetera. What we are seeing is a repeat pattern across the state as Chris had mentioned, of contractors coming in and everybody who works under that contractor is not an employee. They are an independent contractor or a 1099. How is it that one (1) general contractor has one hundred (100) independent contractors working under them, none of which have licenses and none of which are being paid a fair wage or even on the books, without workers' compensation, health coverage, and without paying any taxes. What you have is you have a system in which reputable contractors are bidding saying that the ten (10) guys working on the job are my employees, I have paying for their health and welfare, workers' compensation, general excise tax (GET), and federal income taxes, including Medicaid, federal Insurance Contribution Act tax (FICA), federal unemployment tax (FUTA), state unemployment tax (SUTA), and

all of that. That is what a reputable contractor does. Then you have those coming into Kaua'i, in which we have found several now, that are saying that they are a general contractor, but all of the workers under me are independent contractors. None of them have licenses. All of them are paid in cash and they have to file their own taxes. When you have a situation like that, you have an imbalance in local contractors playing by the rules and bad actors who have no intention of playing by the rules. That is why we feel that it is a very small step to ask them to disclose who are working on the job site, who are these contractors...you are saying you are doing electrical, plumbing, painting, et cetera, for example a hotel renovation, but you do not know any of the contractors that are licensed to do this? That does not make any sense. Then the question arises of have any of these contractors working on the project broken the law in the past? These are all State laws. The problem is, the State is underserved, and they are understaffed just as a lot of government is. Really, where the rubber meets the road for contractors is in the application for a building permit. It is at that time that the County can ascertain, "Okay, who is doing the work on your project, are they licensed, and have they had any previous violations?" If they say, "no" then here is your building permit. Let us say that we get to a case where someone says that all of their contractors are licensed and none of them have had any previous labor violations, they start the project, and then you find out, wait a second, there is not a painting contractor, electrical subcontractor, plumbing subcontractor, but they are doing all of these types of work and they have none of the licenses. Then finally you find out that these people have had previous violations. It is not so far to say that this is brand new territory. This is simply disclosure. It is to stop people who have no intention of following the law, to start where the rubber meets the road at the building permit phase, so that it allows the County, the State, and other reputable people in the community to interject themselves and report that these people have no right doing a multi-million-dollar hotel renovation with people who are not from the State.

Council Chair Kaneshiro: Nathaniel, that is your first three (3) minutes. You can continue for another three (3).

Mr. Kinney: I do not want to belabor the point. It is not going too far. The only reason we started on Kaua'i is because of previous cases that have happened mainly in the Princeville region with large hotel renovations. These are multi-million-dollar jobs with people coming in, non-local workers, then you find out when you get on the job that all of them are being paid cash. Then you have local contractors that are getting underbid and local workers that are sitting on the bench. That is something that is particularly egregious in a small economy and place like Kaua'i where every job matters. These contractors are just trying to make it day-by-day. This is not a Bill aimed at reputable contractors. This is a Bill that is aimed at disreputable contractors that have no intention of following the law.

Council Chair Kaneshiro: Thank you. I do have a clarifying question from Councilmember Cowden.

Councilmember Cowden: I am just trying to understand when you are talking about out-of-state and in-state. We had a challenge especially during the lockdown period of all kinds of people coming over from the different islands just

walking in and working when our own people are having to stay home. When you are talking about out-of-state, how much of these come from in-state, but are still people from another island and taking up our housing over here? Is there anything that guides people to hire locally when they come in instead of from somewhere else?

(Councilmember Chock was noted as not present.)

Mr. Kinney: Are you saying that...the audio is not quite the best for me, so I cannot really hear you. Could you repeat that last part?

Councilmember Cowden: Yes. When a general contractor comes from elsewhere and then brings all of these subcontractors in, do you see this as being sufficient for protecting especially for on-island contractors. What happened most profoundly during the lockdown is people were flying in from elsewhere going to work while our own people with the same skills had to stay home unpaid. There were the health risks and I had a lot of complaints at that time.

Mr. Kinney: That is exactly what this Bill is aimed at. There was an exact instance frankly where a bunch of guys came in. They were not from O'ahu, they were from the mainland. They said they were construction workers. They came in. They went to work while a bunch of guys were sitting on the bench. This was a multi-million-dollar hotel renovation. Then when you went on the jobsite, none of them had licenses. They were all independent contractors, not subcontractors. They were independent contractors. Every single guy on the job was a single entity unto themselves. When you have instances like that, what are the safeguards in place? Where is the safety? What are the regulations that can be put in place without being too burdensome to the reputable contractors? When we talked to the Administration, the Administration came up with this idea of having people disclose who will be on the project?

(Councilmember Chock was noted as present.)

Mr. Kinney: What are they going to be doing, and whether or not they had any labor violations. I would say ninety-nine percent (99%) of contractors can provide this information without even blinking an eye. It is that one percent (1%) that have no intention of following the law, that do not want to disclose anything, that are coming in and taking...I am not talking about a single house. I am talking about a...it was around an eight-million-dollar hotel renovation job.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I have several clarifying questions, only because you made it apparent to mention hotel and the eight-million-dollar job. It sounds like somebody got the job and somebody did not. That is kind of the way I am looking at it. The guy that did not get the job is trying to create some new laws. I am asking, did you lobby at the State level? This seems like it would belong under the State's jurisdiction to enforce. You are asking now the County to do it at our

Building Division and I do not think we separate between commercial and residential. So if we do this, we are going to hold every homeowner, general and homeowner-builder liable for all of their subcontractors or entities on the job site. I believe that could cause more bureaucracy and red tape. The clarifying question I want to ask you is, did you lobby at the State level to try to get some kind of clarification since you have all of these facts that the one percent (1%) is doing something illegal? Did we get the Department of Commerce and Consumer Affairs (DCCA) or Department of Labor to investigate that job on Kaua'i?

Mr. Kinney: Yes, we did. There was a lot done. We filed a complaint. Yes, ever since the Maile Sky Court, where it happened right in Waikiki, we have been pushing for several types of laws at the State Legislature to try to tighten up this issue of a labor broker. What happened at Maile Sky Court is you had a labor broker who brought in all of these independent contractors. Again, it was a large hotel renovation. You have these general contractors sitting above saying they do not know where all these guys are coming from and that they just went to a labor broker. In that case, the Federal government, the State, and everybody came down and the general contractor said they had no idea those guys were undocumented or were all independent contractors. Ever since that case happened, we have been pushing at the State level to do this. One of the important distinctions within the Bill, Councilmember, is that owner-builders are not held to the same standard. They are not put in the same bucket as a general contractor doing a general contracting job. There is a homeowner-builder exemption for all of this type of paperwork. That is not really what is meant to...the disclosure is not meant to burden people who are doing a renovation or building their own home. This is more for larger projects in which a general contractor is the one pulling the permit and should be able to...any general contractor can tell you, at the time of pulling a building permit, who their subcontractors are and whether or not they have had labor violations. I would say ninety-nine percent (99%) of the contractors that are doing work can tell you that information fairly quickly. Again, understanding that we do not want to overburden regular citizens who are trying to get their kitchen or bathroom renovated, or adding an additional dwelling unit (ADU) because there is a housing crisis. Owner-builder exemptions are not even a part of this.

Council Chair Kaneshiro:

Councilmember Carvalho.

Councilmember Carvalho: I just wanted to clarify that again. Owner-builder, there is a classification part and rules that are in place right now. I want to assure that that level can do what they need to do for their own homes without any of these restrictions. This Bill does not include that, right? It is more for commercial side?

Mr. Kinney: Right. It is not meant to apply for owner-builders. There is a specific exemption built into the State law for owner-builders as well as the County practices from the beginning. That was one of the main concerns from the Administration when we came to them with this problem. They wanted to make sure that we are looking at the people that deserve to be looked at and making sure that it is not unduly burdensome for regular people who are

trying to just do small things. That is why the Bill is designed the way that it is, so that we are not creating something overly burdensome.

Councilmember Carvalho: I still think this should be handled at the State level. I think there needs to be a lot done there first before we get down to the counties. I just wanted to clarify that.

Council Chair Kaneshiro: Some of these questions might be better directed at the Administration when the Bill comes up. They are the ones that proposed the Bill. Councilmember Cowden.

Councilmember Cowden: Mine might be for them. He just seems to know so much. When I am on some of these jobs, I cannot help but notice that English is hardly utilized. That is why earlier I wondered if there is some sort of passport...I do not know how many people are being brought in from other countries, but that is what it seemed like was happening. I would have to assume that would go in there somewhere.

Council Chair Kaneshiro: Is that a question?

Councilmember Cowden: That is a question, but is that better suited for the afternoon?

Council Chair Kaneshiro: I did not really understand the question. It could be for the Administration when it comes up.

Councilmember Cowden: Okay, I will wait for the Administration.

Council Chair Kaneshiro: Are there any further clarifying questions on his testimony? If not, is there anyone else on Zoom?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Are there any questions or discussion from the Members on this Communication?

The motion to receive C 2022-144 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. Next item.

C 2022-145 Communication (06/08/2022) from the Housing Director, requesting Council approval to perform the following:

- a. Acquire under the County's Community Development Block Grant (CDBG) Program a residential unit at 3920 Haoa Street, Līhu'e, Hawai'i, 96766, Tax Map Key (TMK): (4) 3-5-001-165-0030, for a

- purchase price of not more than \$189,850.00; purchase price is based on the KCHA Repurchase Disclosure Schedule;
- b. Approve the resale of 3920 Haoa Street, Līhu'e, Hawai'i, 96766, by fee simple for not more than \$191,650.00 as determined by the Kaua'i County Housing Agency (KCHA) Repurchase Disclosure Schedule plus approximately \$20,000.00 for unit rehabilitation; and
 - c. Authorize the County Clerk to sign legal documents related to the acquisition and resale transactions.

Councilmember Kualifi moved to approve C 2022-145, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony on this item. Is there anyone in the audience or on Zoom wishing to testify? Seeing none, are there any questions from the Members? Councilmember Cowden.

Councilmember Cowden: Is Housing Director Adam P. Roversi here? Thank you. This is going to be a really good deal. When was the last purchase? It is less than two hundred thousand dollars (\$200,000) for both our purchase and resale. What year was this purchased?

There being no objections, the rules were suspended.

ADAM P. ROVERSI, Housing Director (*via remote technology*): Aloha, Councilmember Cowden. I believe that this home was originally purchased about nine (9) years ago. I would have to pull up the real property tax information.

Council Chair Kaneshiro: It shows the recorded date of the original sale.

Mr. Roversi: It was purchased as one of the affordable homes required in connection with the development of the Marriott. It is the Kamamalu Condominium project adjacent to or between the airport and the Līhu'e Industrial Park. The original sale was part of our affordable homebuyer program and was a leasehold property. We are asking permission to repurchase the home from the original buyer and then resell it again within our homebuyer program.

Councilmember Cowden: Okay.

Council Chair Kaneshiro: April 16, 2010.

Councilmember Cowden: I see it right here. Is this a 2-bedroom? I am trying to look for how many bedrooms it is.

Mr. Roversi: I would have to get back to you with that information.

Councilmember Cowden: It is a good deal. This is like what we have hoped for. This will go to someone on our Homebuyer List?

Mr. Roversi: Correct.

Councilmember Cowden: Thank you.

Council Chair Kaneshiro: Adam, I just wanted to confirm that the appreciation that the current homeowner gets, is that the improvements added line of twenty thousand nine hundred sixteen dollars (\$20,916)?

Mr. Roversi: The additional twenty thousand dollars (\$20,000) that is noted in our request is work that we expect to need to do on the unit after we acquire it to put it in a resaleable condition to address some damage. I believe the flooring needs to be replaced in the unit. That is expected improvements that we would have to do before we resell. That is not reflecting the...if I understood the question correctly, that twenty thousand dollars (\$20,000) is not reflecting appreciation to the current owner.

Council Chair Kaneshiro: Okay. I was looking at the purchase disclosure schedule and the twenty thousand nine hundred sixteen dollars and ninety-two cents (\$20,916.92).

Mr. Roversi: Let me pull that up. The original purchase price was one hundred sixty-nine thousand four hundred dollars (\$169,400) back in 2010. What we subtract from that is the mortgage balance. I would have to pull up my staff that prepared this spreadsheet to speak directly to that question. I apologize.

Council Chair Kaneshiro: I guess my question is, what is the appreciation that the current homeowner will receive for having that unit for ten (10) years?

Mr. Roversi: The original purchase price of one hundred sixty-nine thousand four hundred dollars (\$169,400)...over the ownership period they have paid down the loan, so their current mortgage balance is thirty-eight thousand nine hundred sixty-one dollars and one cent (\$38,961.01) and the difference between that one hundred sixty-nine thousand four hundred dollars (\$169,400) and that thirty-eight thousand nine hundred sixty-one dollars and one cent (\$38,961.01) will all be cash-in-hand to the current owner based on the loan payoff. I would have to get back to you to clarify that information. I apologize.

Council Chair Kaneshiro: Okay. Councilmember DeCosta.

Councilmember DeCosta: I wanted to pick your brain. Our gap of income in certain housing qualification applicants, are they addressed with this list so that they can purchase this home, or is this only for a certain income group here on Kaua'i?

Mr. Roversi: Our Homebuyer Program purchases and sells homes at an array of different income price points primarily depending on where the funds came from to enable us to purchase or acquire the house. For example, this

home is being purchased using Community Development Block Grant (CDBG) funds. That program is allowed to benefit only people who make eighty percent (80%) and below of area median income (AMI). When we utilize CDBG funds to purchase and resell a home, the resale has to go to someone at eighty percent (80%) and below of AMI. That has to do with the source of the moneys that we use to purchase the house. Separately from that, we also sometimes purchase homes using our Housing Development Fund. The Housing Development Fund is not necessarily income-restricted to eighty percent (80%) of AMI. An example, we will be coming to the Council in the next month or two (2) with a similar request to purchase and resell a home in the Isenberg Subdivision here in Līhu'e. That home is not income-restricted because we are using County funds and not CDBG funds. It will be resold at an affordable price to people earning one hundred twenty percent (120%) and below of AMI. It would be available to a larger pool of potential purchasers. The flipside is that the purchase price will also be significantly higher, because it will be available to people at a higher income. Hopefully that answers your questions. The incomes of the people who participate on our Homebuyer List vary depending on the source of funds that are used for the particular home in question.

Councilmember DeCosta: Thank you. Just for our viewers, can you clarify an amount when you say eighty percent (80%) and an amount when you say one hundred twenty percent (120%) so that we can get an idea of what kind of target market income bracket this would service?

Mr. Roversi: If you bear with me, all of that information is available on the County Housing Agency's website. County For Sale Limits... County Income Limits. The current, these are based on United States Housing and Urban Development (HUD) annually published income numbers. Currently, let us say we are selling a home to somebody at eighty percent (80%) of AMI, the current income limit for a family of four (4) in the County of Kaua'i is ninety-one thousand two hundred dollars (\$91,200). In contrast, the current one hundred twenty percent (120%) AMI limit for a family of four (4) is one hundred twenty-eight thousand four hundred dollars (\$128,400).

Councilmember DeCosta: Okay. I am just trying to do the comparison in my head. I am talking about approximately one hundred twenty thousand dollars (\$120,000). That is mom and dad making approximately sixty thousand dollars (\$60,000) each. I am looking at maybe a policeman and a nurse would not qualify for being one of those purchasers. I believe the average salary of a policeman would be between seventy thousand dollar (\$70,000) and eighty thousand dollars (\$80,000). I think a nurse makes around one hundred thousand dollars (\$100,000) or one hundred twenty thousand dollars (\$120,000). I just wanted to make sure that we are addressing all income brackets on Kaua'i. That is very important. Thank you, Adam.

Council Chair Kaneshiro: Are there any other questions? Adam, just to make my question clear, I just wanted to know what the appreciation was that the homeowner would get. I know a lot of times we get criticized on our housing policies that the homeowners that are buying in do not receive as much appreciation as they should and that we are holding them back. I do not think that has been the case from what I have seen. They are able to get into a unit at a cheaper cost. They are able to

earn some equity and when they actually sell, they are able to put that equity into something else. I just wanted to get more information on that.

Mr. Roversi: In this particular case, Council Chair, just a very cursory review of the settlement document that you were referring to, this home was purchased for one hundred sixty-nine thousand four hundred dollars (\$169,400). Let us just call it one hundred seventy thousand dollars (\$170,000) to make the math easy. The current outstanding loan is just under forty thousand dollars (\$40,000). The buyer of this home has one hundred twenty thousand dollars (\$120,000) in equity. If they had in contrast been renting this home for the last decade, their equity would be zero (\$0). The participant in this program who likely never could have afforded to purchase a home of any sort outside of this program is walking away from this home having had a decent place to live for quite some time with one hundred twenty thousand dollars (\$120,000) in their pocket, which is far more beneficial than being a long-term renter I would suggest.

Council Chair Kaneshiro: Thank you for that, Adam. Councilmember Cowden.

Councilmember Cowden: I just want to add gratitude to our staff here, it is a 2-bedroom, 2-bath, and I believe the math would be that they would walk away with one hundred thirty thousand dollars (\$130,000), right? It is a little bit more than that. That is great.

Council Chair Kaneshiro: Are there any further questions from the Members? Councilmember Kualii.

Councilmember Kualii: Adam, when you talked about the eighty percent (80%) AMI at ninety-one-thousand-dollar and then the one hundred twenty percent (120%) at one hundred twenty-eight thousand dollars (\$128,000) and then you specifically mentioned this Isenberg house that will be coming up, you have different lists that you go to? Is there a one hundred twenty percent (120%) list that you are going to go to, and the buyer will have the opportunity to purchase this house?

Mr. Roversi: No. The County's Homebuyer List is open to any resident of Kaua'i irrespective of income. Where the income qualifications come in...we have just a single Homebuyer's List of all the people who have signed up. The income qualifications come in when particular homes in particular projects are offered for sale. The income qualifications will vary depending on the home, the project, and it is at that point when we send out information about available homes for sale to the people who are on the list, it is at that point where we make the income requirements known to the potential buyers and where they would have to provide documentation of their income. It is notable that we have a large homebuyer's waiting list. We do our best to offer as many homes for sale as we can. The reality is that many people are on that list for a long time. Their incomes change over time as well. The income at the moment they sign up could be drastically different when they finally end up applying for one of the homes on the list. The incomes of people on the list are a moving target.

Councilmember Kualii: The AMI requirement is one hundred twenty percent (120%) or lower? In fact, somebody much lower who is higher on the list still has that offer and if they can make it work then they have the priority over someone lower on the list?

Mr. Roversi: Correct.

Councilmember Kualii: Thank you.

Council Chair Kaneshiro: Are there any further questions from the Members?

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Is there any final discussion from the Members?

The motion to approve C 2022-145 was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. Next item.

C 2022-146 Communication (06/09/2022) from the Executive on Transportation, requesting Council approval to apply for (after the fact), receive, and expend a Federal Transit Administration (FTA) Section 5311 grant, in the amount of \$1,071,873.00, for operational expenses for the County of Kaua'i Department of Transportation. The indemnification was previously approved through C 2022-26 under CKTAMOA-01, and umbrella Memorandum of Agreement (MOA) for all grants under the FTA for 2021-2026.

Councilmember Kualii moved to approve C 2022-146, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony on this item. Are there any questions from the Members? Councilmember Cowden.

Councilmember Cowden: Can you tell us what this is for...is this for bus driver wages?

There being no objections, the rules were suspended.

CELIA M. MAHIKOA, Executive on Transportation (*via remote technology*): I am sorry, if you would not mind repeating your question.

Councilmember Cowden: This is pretty much supplementing our payroll for our bus drivers. Is that mainly what this is for?

Ms. Mahikoa: Yes. This is our standard annual formula appropriation that comes from the Federal Transit Administration that supplements payroll and fringe expenses for transit operations.

Councilmember Cowden: Thank you. That was my main question. I just wanted to tell you that I appreciate how you supplement the costs to the buses in many different ways. It really helps us.

Ms. Mahikoa: Thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: If we did not get these federal funds to supplement our bus drivers and bus accounts, would the County have to kick in that amount so we would not have to lay off any of our workers?

Ms. Mahikoa: To avoid laying off personnel, yes, the County would need to supplement it.

Councilmember DeCosta: It is important that we have a reserve we can work with in case there is federal funding that is pulled out. Am I correct?

Ms. Mahikoa: I am sorry?

Councilmember DeCosta: It is important for us to have some sort of budget where we can pull this funding from in case the federal funds are not available as a grant?

Ms. Mahikoa: Ideally, yes. That is why we are so grateful to have the Highway Fund and G.E. Tax Fund directed specifically for transportation needs.

Councilmember DeCosta: Thank you.

Council Chair Kaneshiro: Are there any further questions from the Members? While the rules are still suspended, is there anyone in the audience or on Zoom wishing to testify? Lonnie.

Mr. Sykos: It is wonderful to get millions of dollars from the Federal government. Thank you, Uncle Sam. In regards to our transit operation expenses, for the public, one of our primary interests always is what is the growth curve of expense for the things that the County government is involved in, and in particular, wages. Wages, overtime, retirement, et cetera, is a major part of our budget. I am grateful to get this money from the Federal government, but as part of that, as a citizen, I have an obligation for that money to be used as efficiently as possible. When we get money like this, it would be beneficial to the public if we could get a chart that shows what the growth curve is of expense over time. That way we can look at whether our operations are getting more or less efficient, regardless of the "free" money that we get, we have an obligation to create more efficiency. One of the

things that I never understood is why our fleet of buses consist of a single type of bus. I am eligible for bus services, so I very commonly would call, and a giant bus would show up and would haul one (1) person to their destination. I forget what it was called. Is it a Handi-van? It might be more efficient with a fourteen-passenger van instead of that big bus with two (2) lifts on it. It could carry two (2) wheelchairs or ten (10) passengers and a wheelchair versus the large expense of the big bus. Is it possible for the County to purchase more economical and more maneuverable vehicles? Our current buses have a hard time turning around in people's yards or when they get to the destination, they have to do this back-and-forth to turn around and leave. Can we get more efficient vehicles? Thank you.

Council Chair Kaneshiro: Is there anyone else in the audience or on Zoom wishing to testify? Seeing none, is there any further questions from the Members?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Is there any final discussion from the Members? The motion on the floor is to approve.

The motion to approve C 2022-146 was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. Next item.

C 2022-147 Communication (06/15/2022) from the Housing Director, requesting Council approval to receive and expend Hawai'i Housing Finance and Development Corporation (HHFDC) funds, in the amount of \$1,977,568.00, from the HOME Investment Partnership Program – American Rescue Plan (HOME-ARP), which will be used for the Lima Ola, Phase I Permanently Supportive Housing Development in 'Ele'ele, and to indemnify the HHFDC.

Councilmember Kualii moved to approve C 2022-147, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony on this item. Do we have any questions from the Members? Councilmember Cowden.

Councilmember Cowden: Director Roversi, I want to also thank you for getting these moneys. These moneys are from the ARP. I looked through the documentation here and all of the communications. Is this money going primarily to the structures for people who are at high-risk or houseless? That is what it looks like to me. Or perhaps for people who are fleeing violence? Is this particular set of funds going to that structure? This is "permanent" as opposed to "transitional." Can you explain where these moneys are going to be invested.

There being no objections, the rules were suspended.

Mr. Roversi: Sure. The HOME-ARP funds are a one-time grant that was offered by the federal government in response to the COVID-19 pandemic. The funds must be utilized provide housing to those most in need. We have interpreted that to be the homeless or those who are of imminent risk of being homeless. These funds are being allocated to construct twenty-four (24) units of a new supportive housing project at our Lima Ola affordable housing subdivision. The supportive housing project will mimic our existing Kealaula supportive housing project here in Līhu'e by the Department of Water. The tenant selection plan for that existing project, as well as the Lima Ola project, will target people who are currently homeless or are at imminent risk of becoming homeless, meaning that they are subject to eviction, sleeping on a friend's sofa, or something like that. That will be the target group for this project.

Councilmember Cowden: Kealaula has I believe a twenty-seven-month limit or twenty-four-month limit. This says "permanent," so is it permanently supportive housing? Are people going to rotate out?

Mr. Roversi: That is somewhat of a term of art as far as the HUD when they think of transitional supportive housing versus permanent housing. "Permanent" does not necessarily mean forever. At the Kealaula project here in Līhu'e, as well as for the planned Lima Ola project, we have what I would refer to as a soft time limit of two (2) years. I say "soft" because it is the project's goal at both of these facilities, tenants are required to participate in an array of wraparound social services designed to help them get their life together and get back on their feet, address substance abuse issues, get assistance with employment, and so forth. The goal in each case is to provide sufficient services to folks that within two (2) years, they will be prepared to move onward and upward to a more truly permanent source of housing. I say it is a soft two-year time limit because if someone is not quite ready after that two-year period to move out, they are not going to be kicked out based on some firm deadline. We will work with them. That is the overarching goal, to transition people out of the facility to a different situation. I think we have demonstrated success at doing that at our Kealaula project. There are twenty-eight (28) units. I do not have the latest numbers, but as of the last report that we had from Women In Need, who manages that facility, I think we had at least fifty percent (50%) turnover of the units within the first year of operation. All those people are not returning to homelessness. They are moving into permanent housing situations having received the support and services while they were at the Kealaula project.

Councilmember Cowden: That success is consistent with what I have heard when I speak with them. You and the Office of the Mayor did an excellent job at getting those units for almost one hundred thousand dollars (\$100,000) per unit. Two million dollars (\$2,000,000) if we were able to repeat that, would be largely funding construction. How much more do we need than the one million nine hundred seventy-seven thousand five hundred sixty-eight dollars (\$1,977,568) that we are receiving? Is that half the amount? How close are we to having it funded of this particular supportive housing development?

Mr. Roversi: It is roughly half the amount. We are targeting twenty-four (24) units as well as the common area, management building, offices, laundry facilities, et cetera. We are actually in the process of entering into the contract. The total price tag I believe was around four million three hundred

thousand dollars (\$4,300,000). We already have the additional funding in place. We have all the funding and are prepared to move forward with the contract to get that project done.

Councilmember Cowden: I am very happy. You know how important this community is to me. Thank you.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: Thank you. Adam, I think we have learned some great lessons from Kealahou. I am just curious, when we talk about the funding and the various investments that this can be utilized for, does childcare come into play? My understanding is that you have set-up some kind of program at Kealahou. Would that be duplicated at Lima Ola to provide services for families?

Mr. Roversi: At the project here in Lihue, we had sufficient funding at the time to...we built thirty (30) potential units. We ended up utilizing twenty-eight (28) of those units for residency. We held back one (1) of the remaining units to use as a classroom or potential childcare facility. To-date, I do not believe it has actually been utilized as a childcare facility. It has been used mostly for classroom purposes to provide services for the tenants. Our current plan at the Lima Ola project does not include an additional sort of resource building. Our plan is to generate all residential facilities. We are not currently including a childcare component at the Lima Ola project. We are, however, working to construct a community center to not only support the supportive housing project, but will also serve the other eighty-five (85) rental units, as well the thirty-eight (38) single-family homes. Over time, that community center as well as playground and play court facilities will hopefully evolve to serve that immediate Lima Ola community as well as the surrounding 'Ele'ele neighborhood for Summer Fun programs and all of the other services that we offer at the different neighborhood centers around the island.

Councilmember Chock: Thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: The thirty-eight (38) single-family homes, would they be at the one hundred twenty percent (120%) AMI limit?

Mr. Roversi: That is our tentative plan, yes.

Councilmember DeCosta: Okay. So, we are still missing some of those gap income people. The transitional housing, do we have a similar waitlist as we do for the low-income housing, or is the transitional housing simply to become a resident of Hawai'i and you qualify to get on that waitlist? What is the distinction between the transitional housing list and the low-income housing list? Are there differences in the qualifications?

Mr. Roversi: Let me clarify. Our Homebuyer List that is establishing in our Housing Policy is for people who wish to purchase a home through our County Homebuyer Program. That is completely separate and distinct from

people who are wanting to be on a rental waiting list. Those are not one and the same. They are apples and oranges. The County does not maintain a rental project waiting list. Each rental project around the island, most are owned by private or nonprofit entities, and they are managed by independent management companies. Each of those rental projects maintain their own rental waiting list based on their own parameters and various income requirements which all have to do largely with the sources of funding that were used to create those projects. For our supportive housing and our existing Kealahou project as an example, the waiting list for that project was generated by the Housing Agency conducting outreach at County beach parks to the homeless population during the COVID-19 pandemic. If you recall, we established five (5) designated safe camping areas during the COVID-19 emergency in the beach parks while they were closed. Our staff in partnership with the Kaua'i Continuum of Care conducted outreach work at all of those beach parks and compiled a list of interested homeless households to create a waiting list for the Kealahou project. Separately from that, the Kaua'i Community Alliance, which is a HUD-mandated coalition of nonprofit organizations which receive State and Federal funding to address homelessness broadly, participate in a statewide database which the acronym is CES or Coordinated Entry System, as they provide outreach work to the homeless population wherever they may be in encampments throughout the island. They collect information on these folks and enter their information into the CES database. The waitlist applicants can also be drawn not just from the outreach work that is done directly by the Housing Agency and our partners, but it also comes from this CES database, which maintains a running database of homeless individuals and families on Kaua'i and it attempts through a very lengthy questionnaire to rank the people on the list based on their degree of need and prioritizes them for services through that system. That is how the waiting list is generated for our supportive housing projects.

Councilmember DeCosta: I appreciate your lengthy explanation. I was just worried if we as a County are taking care of our own kind in our homeless division. I was at Safeway yesterday and I saw two (2) homeless gentlemen in their thirties asking for funding or money with a can. I asked them if they needed some yardwork, but they were not interested in doing yardwork, but did ask me for free money in their can. They did not look local. I did not ask them where they were from. I am just hoping our tax dollars are helping our homeless people here on Kaua'i, who are residents and just fell into a hard time. I am hoping we are not making this available to just anyone coming in from another state and reap the benefits of our tax dollars. That is the explanation that I wanted. Thank you, Adam.

Council Chair Kaneshiro: Are there any other questions from the Members? If not, while the rules are still suspended, is there anyone in the audience wishing to testify? Lonnie.

Mr. Sykos: When I read through this thing, I was amazed. Thank you very much to the Housing Agency. You really have done a great job and that goes to all your staff, the Administration, et cetera. Getting this one-time grant is a wonderful thing. For the public, the population to be served are the homeless, the people at-risk of being homeless, those in transition, veterans, families

that have a veteran, those fleeing domestic violence, and other HUD qualifying populations. This will be significant for the people that it helps, but it is hardly sufficient for the size of that target population on our island. To address the Council's observation that our humanitarian resources would be wasted on someone not born and raised in this County, perhaps the County Council should consider how you would like the citizens who were born and raised here to be treated when they are forced off this island because there is no housing and they end up in another county and should they be discriminated against because they are not from there and yet they expect to be treated humanely in any of the other counties or jurisdictions in the United States. You are very inhumane, your observations about people not from here. It is offensive to our civil rights as the general population. We have the right to travel between counties. This money is federal money. It is not yours. You are simply the administrators of it. It is offensive and it is bigotry, and it needs to be publicly challenged which is why I just did. To the Housing Agency, thank you very much. We have an enormous need locally and nationally for this type of housing and it is great to see that this much is being done. Thank you very much.

Council Chair Kaneshiro: Is there anyone else in the audience or on Zoom wishing to testify?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Is there any final discussion from the Members? Councilmember Cowden.

Councilmember Cowden: I am really pleased that we have another one of these extraordinary buildings coming into place. I just wanted to acknowledge one (1) of the organizations, Women In Need, that helps men, women, and children. They are doing an effective job in transitioning people. It is not enough, but we are doing it one (1) step at a time. I am just so excited that we have this fifteen million dollars (\$15,000,000) that has come out of the State Legislature this year that we are going to be placing in 'Ohana Zones, which is directed at our people who are without housing, or as we said, ready to be without housing. Each one we get going is great. I am looking forward to units like this in different areas. We all win when we have our people out of the guinea grass and indoors getting better and getting ready to thrive. Deep gratitude for this second example of a good project.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: I am intrigued by how it is that we approach the problems that we have in our community. Obviously, many of our businesses are suffering with their workforce. One of the reasons is housing and our ability to house people and get them into shelter. I think the County has done a great job at looking at a pipeline of offering services. I would just mention, in addition to that, and the reason why I bring up childcare, the State allocated two hundred million dollars (\$200,000,000) to go towards early childhood education. I think it is a great opportunity for us to look into how we can bring together resources necessary to fill all the gaps. What better place than these hubs to bring those kinds of services

together and provide wraparound services as we have discussed in the past. I just wanted to mention that and plant that as a seed and an opportunity.

Council Chair Kaneshiro: Does anyone else have any final discussion?
Councilmember Kualii'i.

Councilmember Kualii'i: I, too want to primarily thank the Housing Agency and our Housing Director for going after this. I think it is really important that we get whatever Federal funding we can to put into our housing development. We need a lot more obviously, but we need to do what we can and the only we can do that is to make sure that we have the funding. I am really happy to hear that this funding is the last part needed and now we have the full amount we need to proceed with the next Kealahou transitional housing project in Lima Ola.

(Councilmember Chock was noted as not present.)

Councilmember Kualii'i: I am excited too that we have found at least one (1) formula and taken advantage prior with the 'Ohana Zones approval from the Governor before. I am hopeful that the next Governor will give us something similar and see that our housing crisis is indeed a crisis. The shortage is a crisis, and we should treat that the same way we treat COVID-19. We treated COVID-19 as a crisis and got those special exemptions and funding for the 'Ohana Zones. Let us get this done. I hope we break ground as soon as possible and then we move on to the Waimea lands that the County has and hopefully in Kilauea. We obviously need it all across the island. Twenty-nine (29), thirty (30), and thirty-five (35) units are only small amounts. We need a lot more. The County alone cannot build our way out of this housing crisis, but we have to do our part. Let us keep moving and keep doing more, like when we updated our Housing Ordinance. We need private development. We are working with the Housing Director and need to come back and do another round of updates to our Housing Policy. Hopefully that is coming really soon. Thank you to our Housing Agency and everyone helping us with housing. It is critical.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: Again, just following up to what everyone has said. Lima Ola started and now we are at this point. We have land that is secured for housing. We as decision makers need to secure funding to bring it to the land. This is just another example. Kudos to the Housing Agency.

(Councilmember Chock was noted as present.)

Councilmember Carvalho: Lima Ola has progressed so far in this time and that is a great footprint that we can use for other projects that are forthcoming. I look forward to doing what we can at the Council level to provide secured funding, reaching out, or doing whatever we need to do. To see the levels of funding that came in and the layout for that community, it is an awesome footprint. *Mahalo* to the Housing Agency and we look forward to seeking other forms of funding or whatever we need to do to continue other projects. Housing, rental housing, home ownership,

whatever it is, it is for our people, and we just need to move forward. I am totally at the table with that understanding and look forward towards more opportunities.

Council Chair Kaneshiro: Does anyone else have any final discussion?

The motion to approve C 2022-147 was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. Next item.

C 2022-148 Communication (06/16/2022) from the Executive on Transportation, requesting Council approval to apply for, receive, and expend a Fiscal Year 2022 Federal Transit Administration (FTA) Section 5339(c) Low or No Emission (Low-No) Bus Program competitive grant, in the amount of \$5,365,214.00, and FTA Section 5339(b) Bus and Bus Facilities Program competitive grant in the amount of \$6,687,892.00. The 5339(b) grant will provide eighty-five percent (85%) of the cost to replace four (4) diesel-powered buses that have exceeded their useful service lives, with four (4) electric-powered buses, along with charging infrastructure, and the Agency's base yard expansion projects, as recommended in the Kaua'i Multimodal Land Transportation Plan and the Kaua'i Short-Range Transit Plan.

Councilmember Kualii moved to approve C 2022-148, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony. Do we have questions for the Administration? Councilmember Cowden.

Councilmember Cowden: *Aloha, Celia.* Good job. I appreciate more of this great work that you are doing. The part of me that has done solar work, what I am hoping is that we have a system where we can swap these batteries. When I think about it, if we are parking buses at night and charging them on our diesel generator in 'Ele'ele or Kapaia, we get power loss that way. If we are trying to save the atmosphere by having energy-efficient solar vehicles, we move away from that benefit if we are charging them on diesel at night. Do they have that? Can we ask if they have that technology coming in where these batteries can be moved in and out? If we moved all of our buses onto it and especially if cars moved on to being electric vehicles charging at night we would have a real problem.

There being no objections, the rules were suspended.

Ms. Mahikoa: Thank you. In regards to the exact details on the carryout of how the charging is going to be done, that is certainly an element that we are putting into consideration as we are having discussions with Kaua'i Island Utility Cooperative (KIUC) as well as with the consultants that are onboard. This is a part of the statewide initiative to transitioning the entire state's transit fleet to electric at this moment or to zero-emission transit fleets. With that, we are working with the consultants and in discussions with KIUC to work out the timing of our charging as well as the methods that would be employed to maximize the benefit

environmentally as well as operationally. We are needing to look at it from every angle to maximize the benefit for the community as well.

Councilmember Cowden: Thank you, Celia.

Council Chair Kaneshiro: Are there any other questions from the Members? Councilmember Evslin.

Councilmember Evslin: What is the timeframe on these purchases and the requisite buildup?

Ms. Mahikoa: The first round of electric vehicles we are right at the end of finalizing the request for proposal (RFP), and this is a coordinated statewide effort that we are taking on. These vehicles that are included in this request are the next round. We would be looking at two and one half (2.5) years maybe to possibly up to three (3) years depending on how things go. Timeframe-wise, that is a general approximation of what we are looking at for integrating that and completing the transaction should the funding be awarded and approved.

Councilmember Evslin: Thank you. Has KIUC expressed any willingness or potential to do a special rate for those chargers?

Ms. Mahikoa: We have been in discussions with them. Up to this point there has been no commitment. They are still reviewing the proposal and are taking it into consideration. We will continue to work with them to identify what the possibilities are at this point.

Councilmember Evslin: Great. Thank you. This is certainly exciting. Thank you for your work on this front.

Council Chair Kaneshiro: Are there any further questions from the Members? Councilmember Kualii.

Councilmember Kualii: Celia, the last item we talked about housing and it was ARP funding. This funding is actually new funding from the federal government, and it is from the Bipartisan Infrastructure Law? It is part of the infrastructure moneys that President Biden championed.

Ms. Mahikoa: Yes, that is correct.

Councilmember Kualii: This funding will be available for multiple years. Are we only allowed to go after some now and more later? Do we see this as a potential source for even more electric buses in a second or third round?

Ms. Mahikoa: I am not certain about any future commitments in regard to funding becoming available. That seems to be the trend as to where things are going. When we see the opportunity, we immediately want to

proceed with what we can within our ability to make the most of the current offer. There are never guarantees for the future though things may look likely.

Councilmember Kualii: This funding on the facility part and charging, that will also help with the expansion of the current baseyard for our buses?

Ms. Mahikoa: Yes, that is correct. We are attempting to integrate those steps and the charging infrastructure at the same time the expansion that we are requesting funds for also.

Councilmember Kualii: Thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Thank you again Celia for all that you do. I wanted to piggyback on Councilmember Cowden's comments that she made about charging the batteries at night. I think that was excellent bringing that to the forefront. I was wondering, do we have funding to purchase extra batteries so that during the day when our vehicles are on the battery, we have spare batteries already being charged during the day so that at night we can swap it out? That way we will not be using our diesel generators to charge those batteries. That might be a way to solve that problem.

Ms. Mahikoa: We can certainly open that up for discussion with our consultants to see what the options are. Thank you.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: Just one (1) clarification and we talked about this before. I just want the public to understand that this is a statewide effort, right? We are doing this together statewide and this is what Kaua'i will receive in this effort. Can you explain a little more about the relationship part and continuing to move forward? Yes, we receive four (4) more and four (4) more are coming. That relationship is really moving forward.

Ms. Mahikoa: Thank you for highlighting that. This is the first time that we are entering into a cooperative purchase agreement statewide between Maui, Hawai'i Island, and Kaua'i. The Hawai'i Department of Transportation Planning Office, where our funding must pass through because we are rural counties, is centrally coordinating this. Because it is a statewide initiative, we are working together on the zero-emission bus pilot project, which is the first step on this and at the same time we are seeing these additional funding opportunities becoming available. It will certainly help for us to progress to that ultimate goal of transitioning the entire fleet by 2035, which was the statewide goal for the State's and counties' fleets. We are encouraged by seeing these resources becoming available for us. We are extremely grateful for the support and resources.

Councilmember Carvalho: Thank you for that. Regarding the charging stations, I know there was a discussion on the location of the charging station. That was brought to my attention. Could you explain that a little bit?

Ms. Mahikoa: Preliminary scoping of the installation of the charging stations, we are looking at one (1) corner of what we call Lot "B," which is the smaller lot right across our office here where our buses are housed. It will take some reworking of our parking. We are extremely limited space-wise right now, which is why we are doubling up our request with what it would take to expand the baseyard and get the charging infrastructure installed. Both we and our consultants have determined that location to be the most beneficial location for that service.

Council Chair Kaneshiro: Are there any other questions from the Members? If not, while the rules are still suspended, is there anyone in the audience wishing to testify on this item? Lonnie.

Mr. Sykos: I am trying to remember how long ago it was, I am guessing the better part of fifteen (15) years ago, I sat right here, and the County decided to purchase a hybrid bus. Does the County Council have institutional memory? Do you remember what happened with the hybrid bus? A show of hands? Council Chair can you ask the Members, if anyone remembers the economic reality of the hybrid bus that we purchased? No institutional memory? It was a complete disaster. The bus never ran on a route. It reached a point where even if they could fix the electronics which they could not, it would have cost more to run it than the diesel buses. My issue with this is, I realize it is a state thing, but the pollution involved in creating the lithium batteries is a nightmare. The idea that this is a zero-emission bus is wrong. That is only that it does not burn fuel. It has nothing to do with recharging it or the creation of the batteries itself. The County finds itself in the position of the State wanting us to transition to electric buses. We are going to buy four (4) buses, which means we are not going to have four (4) diesel buses we know work. What happens if the new electric buses fail? Have they been beta tested? What is the beta testing for the buses we are going to buy? That means, how many years have they been used in a real-life environment to demonstrate that technology works? Will this bus survive driving through the salt spray in Kekaha? Will it survive driving through the salt aerosols going through the Kapa'a corridor? Every time the bus drives near the coastline, it gets filled with aerosol salts, which impacts the circuitry if it is not protected from the salt. What is the County going to do if these buses fail? That is my question now as you go ahead and accept the money and these buses. What is plan "B" if the buses fail? I do not believe there is a track record to demonstrate success in our physical environment.

Council Chair Kaneshiro: We have a clarifying question.

Councilmember DeCosta: You mentioned lithium and how we retrieve that ingredient to make those batteries. Could you educate us on how much pollution is used to extract that from the earth?

Mr. Sykos: Rare earth minerals require enormous amounts of electricity, and they are also purified through chemical processes in which you have extremely toxic waste products that have to be disposed of. The battery itself is highly toxic when it gets to the end of its useful life. How to dispose of these batteries is something that has not been figured out yet, other than enormous toxic landfills.

Councilmember DeCosta: I am interested in knowing, tell us where does lithium come from? What state is it mined from? I know they are not doing it in Hawai'i.

Mr. Sykos: Nevada has the largest deposits in the United States. There are these rare earth minerals all around the world. The problem is always the damage done by extraction mining.

Councilmember DeCosta: Thank you, Lonnie.

Council Chair Kaneshiro: Is there anyone else in the audience or on Zoom wishing to testify on this item?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Are there any final questions from the Members? Council Vice Chair Chock.

Councilmember Chock: Sorry, I do not want to really do this, but I do not want to go on with inconsistencies with what is being shared. If you could indulge me...I do remember the hybrid bus. I would like to ask our Executive on Transportation about the program.

There being no objections, the rules were suspended.

Ms. Mahikoa: In regard to the hybrid bus and our experience with that, basically that was a trial that we had purchased the hybrid bus to attempt to use a hybrid diesel electric bus that would basically be self-charging. There would be no charging infrastructure involved. Part of the challenge that we learned upon purchase of that bus was that at that time, they only had very large buses available, which we utilize on our long main routes and runs that go out to Kekaha and Hanalei. After implementation, while tracking the fuel use on the vehicles, we were noting that it was not showing a significant savings. Part of that was due to the fact that those hybrid vehicles we learned were most effective or fuel efficient in conditions in which there is a lot of stop and go. It would have been most practical to utilize that bus on a shorter shuttle route that stops and goes very frequently from stops. However, because of its size, there were very limited options. It was not practical to have that vehicle handling the shuttle runs, which typically have to go on more narrow roads or throughout the many turns throughout the smaller roadways on the shuttle runs. With that, part of it was seeing if it would work in our fleet. Unfortunately, in the long run being out in Kaua'i there was

difficulty in getting parts and service support were other challenges. The current funding recognizes that. The federal initiatives includes at least a five percent (5%) requirement for workforce training within our activities that go into the project budget. We have ways of addressing those challenges that we had learned. That was an experience that we went through. We learned from it and are able to use the lessons as we proceed with this statewide initiative. I do not know if you have any other questions related to that. I hope that answers your question.

Councilmember Chock: Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: How many buses are in our fleet that are operating? How many buses do we use at any one time?

Ms. Mahikoa: In a day, probably about forty-eight (48).

Councilmember Cowden: Forty-eight (48). This is a little less than ten percent (10%) of the fleet. When these concerns are being brought up, right now I just want to acknowledge that this is asking to even apply for a grant. This is the application. If we get it, then we would follow through on it. If there was a problem and it became evident that other islands were having trouble using their buses...I think Councilmember DeCosta and the public brought up some good points...if we see there is a problem coming, we do not have to take the grant, right? Say we determine it is not right. You said it is a process that goes on for several years. I like that you are expanding the baseyard. This is another experiment. We had an experiment that did not work. You never know if you do not experiment. Can you decline the grant if you get it, and we see that other islands are having problems?

Ms. Mahikoa: We are allowed to, though that is undesirable as it is taken into consideration when future requests are submitted. However, quite often, I am sure we would be fully justified in requesting for an amendment to the grant application if we are seeing issues that are occurring with say the first four (4) that we purchase. If we see things that we are not able to address by just following the same path, we will have time to make adjustments and request amendments as needed.

Councilmember Cowden: Okay, thank you.

Ms. Mahikoa: Thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I do not have questions. Are we in the final stage of our discussions?

Council Chair Kaneshiro: We did have questions, because Council Vice Chair Chock asked a question.

Councilmember DeCosta: I have discussion.

Council Chair Kaneshiro: Are there any final questions from the Members?

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Final discussion, Councilmember DeCosta.

Councilmember DeCosta: I really appreciate this fruitful discussion. I need to say that Lonnie brought up a really good point about how we extract lithium. We sit here on our little island, and we think that we are going to fix the world's or nation's problems. I want to let you know that these federal dollars are coming down from our Democratic Party, who currently is running the United States of America. We know that with a change of our President, or the change of the party can become insufficient funds that go down to the state-level or to different states. I do not want to see us put our eggs into one (1) basket by bringing all of these electric buses, then in a four-year or eight-year term we have a change of party and we do not have those federal funds coming down like we do now, and we as a County have to provide Celia with that kind of budget to keep these electric entities going because right now we have these federal moneys coming down. I think it is important to know where we are at, where we are headed, and the reality here in Hawai'i. We are fortunate enough that we are at the forefront of leading in the electrical industry and creating power, but the rest of the United States does suffer when you extract lithium from Nevada. There are many animals and water systems that get contaminated. It does not bother us here because we have no impact. We talked about harvesting trees for energy, yet we have large diesel tractors harvesting those trees. I just wanted to bring that cognizant part to the Council. Thank you for today's discussion.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: I just wanted to express my appreciation. *Mahalo nui loa*, Celia for going after this. The federal funds are there and the infrastructure moneys. They have not been there in the past. There are billions of dollars investing in our roads, highways, and transportation systems across our country. It is long overdue and I think it is really important that we here on Kaua'i try to get our share of that and invest that in our transportation system. This is really important what you are doing, and I thank you. I sure hope we continue to get these grants.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: I just want to add that it is part of the Kaua'i Multi-Modal Land Transportation Plan and also the Kaua'i Short-Range Transit Plan. It was always a part of the plan, and it is coming to life now. I think it is a good thing. We just need to move forward. Good job to Celia and the team from Transportation for securing the funding and working closely with everybody else. I look forward to good outcomes here. Thank you.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I just want to express my appreciation to Celia, Leonard, and everyone at the Transportation Agency for doing this work. I know you have been working on this for years. I think four (4) years ago you were already working with consultants trying to figure this out. It has been a long process. I appreciate all of the work that went into it. Just to reiterate a couple of things, State law says that we have to transition to one hundred percent (100%) renewable transportation by 2035. We have to make the transition. Obviously, we have to make the transition because of the climate impacts. Yes, there are environmental impacts of lithium mining, but those impacts of lithium mining are dwarfed by the environmental impacts of climate change, including in Hawai'i with sea level rise and extreme storm events, et cetera, which ends the impacts of extracting oil. In Hawai'i one third (1/3) of our oil comes from Russia or at least did previously. Obviously, we do not want to be funding totalitarian regimes overseas. The more self-sufficient we can get the better off we all are. I think KIUC has really paved the way forward on this front in that seventy percent (70%) renewable energy and the lowest electricity rates in the state. Those two (2) are correlated. The reason we have the lowest electricity rates is because they blazed forward on renewable energy. We can take advantage of those much more stable rates and get rid of the volatility of oil or get away from it by transitioning to electric buses. In regards to nighttime charging, KIUC has said that they anticipate getting to ninety percent (90%) renewable by 2026. By the time we are making this full-scale transition, we are going to be ninety percent (90%) or close to one hundred percent (100%) renewable. Hopefully KIUC's pumped hydro project on the West side goes through, et cetera. This transition needs to happen and needs to happen as quickly as we can. I really deeply appreciate all the work that has gone into it so far and the work that you will continue to do over the next twenty (20) years to make it a reality. Thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I want to appreciate our Transportation Agency for all the good work that they do, including your follow through. Right now, it is interesting that we are talking about the whole world and the politics that get affected. Most of the lithium batteries are not American made. Very few of them are. The impacts are all over the place. It is good that we are at least talking about this and discussing this. I think right now moving forward with our first four (4) buses is a good step that we can see. I remember we got some buses a few years back that could not fit in the garage or be lifted for repairs. I am happy to see that we are adapting our property to be able to look at that. This is a test case, and it is all a challenge whether we get oil or diesel from somewhere else, we do impact the world. We are working on it. Thank you. I support this effort.

Council Chair Kaneshiro: With that, the motion on the floor is to approve.

The motion to approve C 2022-148 was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. We are at a caption break.

There being no objections, the meeting recessed at 10:29 a.m.

The meeting reconvened at 10:40 a.m., and proceeded as follows:

Council Chair Kaneshiro: Welcome back. Next up we have Communication C 2022-149.

C 2022-149 Communication (06/23/2022) from the Acting County Engineer, transmitting for Council consideration, a Bill For An Ordinance Amending Subsections Of Section 25-11.1, 25-12.1, 25-13.4, And 25-13.9 Of The Kaua'i County Code 1987, As Amended, Relating To Sewers.

Councilmember Kualii moved to receive C 2022-149 for the record, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony on this item. We will see it later on our agenda as Bill No. 2874. Do we have anyone in the audience or on Zoom wishing to testify on this item?

There being no one present to provide testimony, the meeting proceeded as follows:

Council Chair Kaneshiro: Are there any questions? This is just the Communication.

The motion to receive C 2022-149 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. Next item.

C 2022-150 Communication (06/28/2022) from Councilmember DeCosta and Councilmember Evslin, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 5A, Sections 5A-6.4, 5A-8.1(g), 5A-9.1, And 5A-11.23(a), Kaua'i County Code 1987, As Amended, Relating To Real Property Tax

Councilmember Kualii moved to receive C 2022-150 for the record, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony. We did receive written testimony on the actual Bill No. 2875. This is just the Communication. If anyone wants to testify now and not have to wait for the Bill, which is going to be coming up very shortly on the agenda, you can testify now, but it will be your only time to testify, and we will include your testimony with the actual Bill. Again, this is just the Communication. If you want to testify now you may so you do not have to stay until the actual Bill comes up. You know the rules. You have three (3) minutes. The light

will turn green. The light will turn yellow when you have thirty (30) seconds. The light will turn red when your time is up. We will go around the room if anyone else has testimony they will come up and if you need another three (3) minutes you can come back. State your name for the record and you can begin.

There being no objections, the rules were suspended.

JEFF LINDNER: Do you folks have copies?

Councilmember Cowden: Almost.

Mr. Lindner: Aloha, Councilmembers. I just wanted to state at the very beginning of this, I think it is a noble thing that needs to get done. I just wanted to bring up a general thing about switching up the valuation from per acre to market value. There really needs to be market value uniformity throughout the island before you do that, otherwise it will not be fair. Some people will be paying more, and some people will be paying less. The first map here is a two-hundred-fourteen-acre parcel which is the land on the *mauka*-side as soon as you turn left out of Hanamā'ulu. It is valued at about three million six hundred thousand dollars (\$3,600,000). The orange is land use. You can see at the very bottom corner; it has a little bit of Urban in it. It has the highway frontage and that is two hundred fourteen (214) acres, and it is three million six hundred thousand dollars (\$3,600,000). If you go to, I believe it is the fourth page, this is a seventy-one-acre parcel. This is right by Ka Loko Reservoir. That is the highway over there. It is seventy-one (71) acres. That is valued at three million five hundred thousand dollars (\$3,500,000). The difference per acre would be almost fifty thousand dollars (\$50,000) to fifteen thousand dollars (\$15,000), it is about one-third (1/3). The two-hundred-fourteen-acre parcel is about one-third (1/3) of the market value of this. You can see how far it is away from Kūhiō Highway. There is a third property in here which is a one-thousand-six-hundred-acre parcel. This is in Keālia. It actually has one hundred fifty-three (153) condominium property regimes (CPRs) on it. It is valued at I think almost seventy-five million dollars (\$75,000,000). Right now, the numbers on there, the valuation is a couple hundred thousand.

Council Chair Kaneshiro: Thirty (30) seconds.

Mr. Lindner: Okay. Is my time up?

Council Chair Kaneshiro: No, you have thirty (30) seconds left.

Mr. Lindner: Okay. There is one (1) more. This is the one that is almost next to the two hundred fourteen (214) acres in Hanamā'ulu. This is really six thousand (6,000) acres. This one is six thousand (6,000) acres. It is Open and it is valued at twenty-four million dollars (\$24,000,000). The other one was sixteen thousand (16,000) acres at close to seventy-five million dollars (\$75,000,000). Okay, I am sorry.

Council Chair Kaneshiro: That is your time. Let us hold off questions until he comes back. Is there anyone else in the audience wishing to testify on this item now? We will add your testimony to the Bill if you want to do your testimony now or you can do your testimony now.

Councilmember Cowden: Dave has to leave. You are going to wait?
Okay.

Council Chair Kaneshiro: If no one else is going to testify, you can have your final three (3) minutes, Jeff.

Mr. Lindner: I want to go back the one-thousand-six-hundred-acre one. The issue also involves CPRs. These are CPRs valued, and I guess, I am not sure what this guy is going to do. I guess he has to take the CPRs off. That is another issue. Why I am here is I want to talk about the fact that they included the hay and to not include hay. That was taken to court. The judge ruled that hay is a crop in Honolulu and the County has appealed it. There are a lot of ranchers who depend on guinea grass because it is much cheaper than alfalfa. It is four hundred dollars (\$400) compared to one hundred dollars (\$100). It is good grass. The other thing too is that all the big parcels are gone, so the ranchers do not have as big parcels anymore. That means you need to supplement. A lot of those parcels have been consolidated and are not available to the smaller ranchers. The cattle ranchers are smaller now. Then there is the issue, and it was in there before, the fact that a CPR is a parcel, that is what it says in the original thing. A CPR is not the same thing. It is an agricultural dedicated lot, because you do not have to join a CPR in a quasi-government where people can do things. The valuation on that should not be similar. When you form a CPR, it is not clear when they do it. As soon as you do a map, the map they consider that as the CPR. There are a lot of CPRs, there is Kulana. Kulana was a CPR. If you make a CPR and you try to sell it, it does not mean you can get a house. Moloa'a Valley down there, those folks have been there for over twenty (20) years trying to build a house. They still have to put in paved roads to even get that house. They are valuing those as an agricultural dedicated lot.

Council Chair Kaneshiro: That is your time.

Mr. Lindner: Yes.

Council Chair Kaneshiro: Clarifying questions. Councilmember Cowden.

Councilmember Cowden: I am not sure I one hundred percent (100%) understood what you said. Is it correct that I am hearing you say that your concern with this Bill is that the valuation of the land is not fair or accurate?

Mr. Lindner: It is not uniform across the island.

Councilmember Cowden: What are you suggesting?

Mr. Lindner: Get that right first and keep the "per acre clause" for now until things are more equitable. When you see the valuations, it is not fair.

Councilmember Cowden: Okay, I just wanted to understand what you were saying.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I have a couple of questions. Is there a difference between hay and guinea grass?

Mr. Lindner: They call it pasture grass and there are three (3) or four (4) and I think the County is defining hay as pasture grass, which is what comes up naturally. There are maybe three (3) or four (4) different kinds, and guinea grass is predominantly the one and is high in protein. The ranchers do like it.

Councilmember DeCosta: Do you know of anyone who bales guinea grass?

Mr. Lindner: I bale it and I sell it to farmers or ranchers.

Councilmember DeCosta: Could you tell me one (1) of the ranchers you sell to?

Mr. Lindner: Russell Leong. I was selling to Bobby Farias. I am not sure if he is still in that. There are some other local folks...Billy Rumens, the guy that sort of handles it for different ranchers.

Councilmember DeCosta: Okay. The reason I am asking is because we are trying to incentivize growing food and growing grass, unless animals are eating it, is not considered as incentivizing a farm product.

Mr. Lindner: Right.

Councilmember DeCosta: I know Hartung Brothers out in Kekaha with the dry humidity, they bale hay, but they have a hard time keeping the mildew out. Where is your property located?

Mr. Lindner: It is in Moloa'a.

Councilmember DeCosta: How is the precipitation and temperature?

Mr. Lindner: You have to bale it in dry weather. It is really not for horses, because with horses, if you get any kind of mildew in it, it will kill the horse. For cows, you can get a little rain, but it is fairly dry in Moloa'a. It just has to sit for a day or two (2).

Councilmember DeCosta: Okay, thank you.

Council Chair Kaneshiro: Okay, thank you. Is there anyone else in the audience or on Zoom wishing to testify?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Again, this is only the Communication. Are there any questions or discussion from the Members?

Councilmember DeCosta: I have discussion.

Council Chair Kaneshiro: We have the Bill coming up later. You can hold your discussion for the Bill.

The motion to receive C 2022-150 for the record was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. Next item.

LEGAL DOCUMENT:

C 2022-151 Communication (06/09/2022) from the Acting County Engineer, recommending Council approval of the indemnification provisions contained in the Grant of Easement for a Shared-Use Path Easement by and between the County of Kaua'i and Coconut Plantation Beach Investors, LLC, for perpetual non-exclusive easement to build, construct, reconstruct, rebuild, repair, maintain, and operate a bike and pedestrian shared-use path for public access purposes, including a parking lot, comfort station, utility connections, and ancillary facilities under, upon, across, and through a portion of that beforementioned property, situated at Tax Map Key (TMK) No. (4) 4-3-007:027 (Portion), Kapa'a, Kaua'i, Hawai'i.

- Grant of Easement

Councilmember Kualii moved to approve C 2022-151, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received no written testimony on this item. Do we have any questions from the Members? Councilmember Cowden.

Councilmember Cowden: Could we put the map up that is Exhibit "C" in our paperwork? Is that possible, Troy?

There being no objections, the rules were suspended.

TROY K. TANIGAWA, Acting County Engineer (*via remote technology*): Sorry, Councilmember Cowden, could you repeat that question?

Councilmember Cowden: I wondered if we could put the map up that is Exhibit "C." When I go and look at it, I feel like what we have in the inset is already built. I feel like I may have been in the wrong place. Longs Drugs is right there where it goes into Aleka Loop. Is that right? I went there to look. It seems like it was built already. What are we building? Are we building what is in the inset or are we building the space going up to the highway?

Mr. Tanigawa: On the map you see Kūhiō Highway. Then there is that road that comes in. It is highlighted in yellow. There is kind of a nebulous-looking space there with anchor points and curves. That is actually an existing parking lot. That is already in place before Phase "C" was constructed. The construction that took place to put down the path, which is referred to as Phase "C" of the bike path, extended from...if you go about halfway down the page, from that point seaward and closer to the ocean it splits off and then there is a thicker portion that goes further towards the east. Construction occurred for the path portions that I just described on this map. Phase "C" also included other portions that were covered under other easements. What is covered by this easement during the construction was portions of that path that I just described.

Councilmember Cowden: Is it that it is already built and we are just doing this Grant of Easement or...? It looked built to me. We just need the Grant of Easement?

Mr. Tanigawa: The Grant of Easement is actually the last phase to convey the property to the County. Construction occurred under a Property Adjustment Agreement that allowed the County to access the property. This Grant of Easement allows conveyance of the property in perpetuity.

Councilmember Cowden: Alright, thank you. This is just a legal item. I went and I looked, and it looked already done. Thank you.

Council Chair Kaneshiro: Are there any other questions from the Members on this item? If not, while the rules are still suspended, is there anyone in the audience wishing to testify on this? Lonnie.

Mr. Sykos: Can the staff give me a copy of this? It will facilitate the observations that I have.

Council Chair Kaneshiro: You just need a copy of the map, or you need the whole document?

Mr. Sykos: The verbiage for the item. Thank you very much. In Section 1, it says, "...or suffer any strip or waste...at the Grantee's sole expense..." All of my questions are going to revolve around one (1) issue. Is the County liable or creating a liability for itself by guaranteeing that this path will exist when sea level rise occurs? The way this is written to me, the County has an absolute obligation to maintain the path or else we are in contractual violation. In order to maintain the path, we will have to protect the in-shore building from being damaged by sea level rise. We are guaranteeing that the property will not be damaged by sea level rise. I am not an attorney, but in plain English, that is all this language says. It states that the "Grantee hereby agrees to waive, release, indemnify and hold harmless the Grantor of and from injuries, death, property damage or any other costs, expenses, claims or obligations of any nature whatsoever which arise from or out of construction of the shared-use path." We constructed the shared-use path and now because of its impact on the shoreline, it accelerated sea level rise and now we have to pay for their condominium. There is no language in this that says we are not liable for the in-shore

property. That is my observation in this. I think this is flawed legally. There are all kinds of disclaimers, but not one that says that if sea level rise damages the path, we have no obligation to maintain the path forever or make whole the condominium on the inside. All this says is that we have to maintain the path. Thank you.

Council Chair Kaneshiro: Is there anyone else in the audience or on Zoom wishing to testify? While the rules are still suspended, do we have any questions? I may as well ask our County Attorney the question on it.

MATTHEW M. BRACKEN, County Attorney (*via remote technology*): Just to address the question, I think the best way to address it is that there is Attorney General opinion, published a few years back. It is basically their opinion that when sea level rises, the State's property then rises with it, as sea level rise pushes up and beaches erode. As things push up...the State owns the beach lines and the County owns the shoreline, right? The shoreline is State property. As the shoreline moves, the State's ownership moves with it. If the shoreline was to move up to where our bike path is at, that would then become State property. Our easement would then disappear. We are talking about years down the road. When a shoreline gets to a point where it hits our path, then it would be our obligation to then remove the path, and that would then become State property. We have no obligation to the people above us to maintain that specific shoreline. If the shoreline reaches our path, we have the obligation or duty to remove our path and then it becomes State property. I do not really see any legal problem with the document we are referring to here. By operation of law, that is what would occur; it would become State property.

Council Chair Kaneshiro: Are there any other questions from the Members on this item or for Matt?

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Is there any final discussion? Councilmember DeCosta.

Councilmember DeCosta: I want to thank Matt for making that clear on the interpretation of sea level rise. I am glad Lonnie brought that up, so we have clarification on that. Thank you.

Council Chair Kaneshiro: Does anyone else have any discussion? If not, the motion on the floor is to approve.

The motion to approve C 2022-151 was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. Next item.

CLAIMS:

C 2022-152 Communication (06/09/2022) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Hooklifts Hawai'i LLC, for

damage to their equipment rental, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2022-153 Communication (06/16/2022) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Michaela Widener, for vehicle damage, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2022-154 Communication (06/24/2022) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Subro Claims, Inc. o/b/o for Geico Insurance, as subrogee for James Brown, for vehicle damage, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kuali'i moved to refer C 2022-152, C 2022-153, and C 2022-154 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony. Is there anyone in the audience or on Zoom wishing to testify?

There being no one present to provide testimony, the meeting proceeded as follows:

Council Chair Kaneshiro: Is there any further discussion from the Members?

The motion to refer C 2022-152, C 2022-153 and C 2022-154 to the Office of the County Attorney for disposition and/or report back to the Council was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. Next item.

COMMITTEE REPORTS:

PLANNING COMMITTEE:

A report (No. CR-PL 2022-06) submitted by the Planning Committee, recommending that the following be Approved on second and final reading:

"Bill No. 2856 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 11A, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO ENVIRONMENTAL IMPACT FEES (*County of Kaua'i Planning Department, Applicant*) (ZA-2022-5)," and

A report (No. CR-PL 2022-07) submitted by the Planning Committee, recommending that the following be Approved as Amended on second and final reading:

"Bill No. 2857 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO

ADDITIONAL DWELLING UNIT (*County of Kaua'i Planning Department, Applicant*) (ZA-2022-6)," and

A report (No. CR-PL 2022-08) submitted by the Planning Committee, recommending that the following be Approved on second and final reading:

"Bill No. 2858 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO A PLANNING DEPARTMENT TRANSIENT VACATION RENTAL PROGRAM ACCOUNT (*County of Kaua'i Planning Department, Applicant*) (ZA-2022-7),"

Councilmember Chock moved for approval of the reports, seconded by Councilmember Kualii.

Council Chair Kaneshiro: We received no written testimony on these items. Is there anyone in the audience or on Zoom wishing to testify on the Planning Committee reports?

There being no one present to provide testimony, the meeting proceeded as follows:

Council Chair Kaneshiro: Are there any questions or discussion from the Members?

The motion for approval of the reports was then put, and unanimously carried.

Council Chair Kaneshiro: The motion is carried. Next item.

RESOLUTIONS:

Resolution No. 2022-23 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE SALARY COMMISSION (*John P. Venardos*)

Councilmember Kualii moved for adoption of Resolution No. 2022-23, seconded by Councilmember DeCosta.

Council Chair Kaneshiro: We received no written testimony on this item. Are there any questions from the Members? Is there anyone in the audience or on Zoom wishing to testify?

There being no one present to provide testimony, the meeting proceeded as follows:

Council Chair Kaneshiro: Is there any final discussion from the Members? Councilmember Cowden.

Councilmember Cowden: I just wanted to say that I am pleased with this choice.

Council Chair Kaneshiro: Okay. The motion on the floor is to approve. Clerk, could we have a roll call vote, please?

The motion for adoption of Resolution No. 2022-23 was then put, and carried by the following vote:

FOR ADOPTION:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa, County Clerk: Seven (7) ayes.

Resolution No. 2022-24 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE PLANNING COMMISSION (*Jerry Ornellas – Environmental*)

Councilmember Kualii moved for adoption of Resolution No. 2022-24, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony on this item. We did have people testify for Mr. Ornellas earlier today. Is there anyone in the audience or on Zoom wishing to testify?

There being no one present to provide testimony, the meeting proceeded as follows:

Council Chair Kaneshiro: Is there any final discussion from the Members? Councilmember Cowden.

Councilmember Cowden: I will say the same thing. This is a really excellent choice, and I am really happy for him in that position.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I personally know Uncle Jerry. I call him that because he knows my father and my family. He is a mentor and a pillar in our community. The selection could not be more perfect. Thank you, Uncle Jerry.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: I, too, totally support Jerry. He brings a wealth of knowledge to the table. He has the knowledge and background. I hope everything moves forward in a positive way.

Council Chair Kaneshiro: Does anyone else have anything to add? If not, could we get a roll call vote, please?

The motion for adoption of Resolution No. 2022-24 was then put, and carried by the following vote:

FOR ADOPTION:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Resolution No. 2022-25 – RESOLUTION APPROVING THE HAWAII STATE ASSOCIATION OF COUNTIES NOMINEES TO THE NATIONAL ASSOCIATION OF COUNTIES BOARD OF DIRECTORS AND THE WESTERN INTERSTATE REGION BOARD OF DIRECTORS FOR FISCAL YEAR 2022-2023

Councilmember Kualii moved for adoption of Resolution No. 2022-25, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written for this item. Is there anyone in the audience or on Zoom wishing to testify?

There being no one present to provide testimony, the meeting proceeded as follows:

Council Chair Kaneshiro: Are there any questions or discussion from the Members? If not, we will take a roll call vote.

The motion for adoption of Resolution No. 2022-25 was then put, and carried by the following vote:

FOR ADOPTION:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Kaneshiro: Next up we have Bills for First Reading.

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2873) – A BILL FOR AN ORDINANCE ADDING A NEW ARTICLE TO CHAPTER 15, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO BUILDING AND CONSTRUCTION REGULATIONS

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2873) on first reading, that it be ordered to print, that a public hearing thereon be

scheduled for August 3, 2022, and that it be referred to the Public Works & Veterans Services Committee, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received written testimony on this item. We had heard testimony earlier today. If Mike or someone from the Administration wants to give us an overview of the Bill...

There being no objections, the rules were suspended.

MICHAEL A. DAHILIG, Managing Director (*via remote technology*): Good morning. Before you, you have Proposed Draft Bill (No. 2873), which proposes the adding of a new Article to that Chapter relating to building and construction regulations. In my correspondence to you approximately one (1) month ago, what this Bill aims to do is to create an enhanced opportunity for disclosure related to contractor-signed permits that are pulled as part of a construction project. This Bill has been reviewed by the Office of the County Attorney for form and legality. What we aim to do in this case is to ensure that there is up-to-date current information that the licensed contractors working on the project are the contractors that are actually working on the project. What we have seen throughout the past few years exacerbated by the conditions related to the pandemic is that there are bad actors within our community who want to use labor that does not meet either the standards set forth by many of the State or Federal regulations relating to labor laws and/or they are using their entitlement as a permitted contractor to use that type of labor, but not pay them fair wages. There has been a policy need and especially with what we have seen as ongoing issues on the island with contractor work is that the environment of fair play needs to be maintained within the County and that is why we have gone ahead and proposed this particular Bill. What the Bill aims to do is to create, again as I mentioned, is enhanced disclosure. What that is, is not to necessarily impart additional enforcement, it is also not meant to create a realm of enforcement of laws that are not within the County's jurisdiction, rather it is meant to provide both the inspector and the broader community with information that can lead to how or what is being done on a property and whether or not there are conditions that may exist that could be in violation of the Code. The Hawai'i Supreme Court has found that where there is reasonable cause to believe a condition in violation of the Building Code may make a project unsafe, things like substandard labor is a condition that provides potential cause. That is what this Bill aims to provide is enhanced information. What it also does is it provides information potentially for the public to understand what is going on with projects. We do get a lot of calls from people asking who this person is and what they are doing on the job. A lot of times, we do not have answers for those and while there may be a path for figuring out what those answers are, it does rely very heavily on engaging with the DCCA in Honolulu. That in and of itself leads to as we know being on a neighbor island, some difficulty in being able to critically and timely be able rectify or notify the appropriate authorities to be able to come in and stop what is not appropriate. There may be some concerns that may be adding to the workload of our Building Division, however, if you look at Section 15.5 of the Bill on the rulemaking authority, what we find best is that the Building Division figure out how to integrate these disclosure items as well as pushing these items to the public in a manner that best integrates with their ePlan Review System. Our ePlan Review System is something

that is already automated to some degree and that digital information that is self-inputted by a potential applicant could essentially minimize any type of administrative presumption. That would require our Building Division to actually sort through with our vendors to how best to efficiently make this process as digitally seamless as possible. What we were intending to ask for is that any time somebody requests a contractor to pull a building permit, that that contractor puts into the system who the subcontracts are and/or if there are any individuals under their licenses that they are hiring to do that work. That is simply it. It is not meant to make judgment as to who those people are, rather it is a self-disclosure Bill that is meant to have these contracts attest under the penalty of unsworn falsification in the law that these are the people that are going to be working with me. That is simply it. Any idea that it is going to roll over into a further enforcement action by our officials at the Buildings Division to enforce on labor laws is not a correct perception. Simply, we believe that having more sunshine in the permitting process as to who is actually going to be working on these projects is a step to ensuring fair play in our County for our contracting community. I did also want to note that under Section 15-5.5 under the rulemaking authority, we have not explicitly asked for any fee authority to raise fees on anybody. I want to make it perfectly clear that there is no fee authority attached to the authorization that has been sent to the Council for request. This is simply meant to fold or weave this policy into the current inter-workings as to how the current ePlan Review process pulls and pushes information between our Building officials, our public, and our actual contractors that pull these permits. We believe that this is a good first step in being able to provide timely information to all interested parties to ensure that we promote a climate of fair play throughout the island and if there are bad actors that our public or other contracting community who actually do conduct themselves in a realm of fair play, have information at their fingertips to file the appropriate complaints or appropriate actions with the Federal and State officials that need to do their role in enforcing a community of fair play amongst our contracting community. With that, Council Chair, I am available for any questions from the Council.

Council Chair Kaneshiro: I have Council Vice Chair Chock, then Councilmember DeCosta.

Councilmember Chock: Thank you, Mike. I have a couple of questions. I wanted to understand, we had testimony from the industry today. Is that where this Bill originated, or did it come from our Building Division with the challenges they were seeing?

Mr. Dahilig: This originated in the conversation where members of our contracting community were raising concerns about the degradation of fair play around the island. This is not originating from the Building Division itself but was meant as a broader overarching policy from an economic standpoint, as well as a community of fair play standpoint, where these policy concerns were raised to us directly.

Councilmember Chock: Thank you. Was it reviewed by the Department of Public Works?

Mr. Dahilig: This Bill was reviewed by the Office of the County Attorney in consultation with the Department of Public Works. They did not see the last final draft of this particular Bill, however the salient points within the Bill were actually raised with the Building Division supervisors regarding what is contained within.

Councilmember Chock: Okay, thank you. Based on the testimony, my understanding is that the intent is to focus in on some of the challenges and complaints that we have experienced here on the island. We are targeting commercial entities that were in violation or potential violation. I think what I have heard from our Council is the concern of owner-builder construction. I am curious if this Bill allows an exemption for that type of construction; owner-builder for residential single-family dwellings.

Mr. Dahilig: In response, I can confirm that that is our intent in wanting this to apply for contractor-pulled permits rather than owner-builder exemption permits. Under Section 15-5.3(c) of the Bill, there is reference to that. We do understand that it would probably be best to explicitly line out that applicability. In Committee, if this passes first reading, we will propose additional language to callout an applicability section to make no confusion as to who this is applicable to.

Councilmember Chock: Okay, thank you. Just so I am clear, because there were some complaints, do we have a summary of those complaints so that we can dive deeper in understanding the complexity of the issues?

Mr. Dahilig: As the individuals from the Carpenter's Union did layout in their earlier testimony, they themselves have received complaints. We have received complaints as well, but since this is not within our jurisdiction to enforce within these tax or labor laws, we do not necessarily keep a record of those items. We are basing this on the dialogue that we have had with contractors, various contractor unions, and anecdotal types of instances where, for example, the pandemic quarantine, we had received police-type inquiries about whether people coming in with contractor exemptions for quarantine for work outside quarantining during the pandemic were actually working on projects under a sponsor. Those things I can personally say are items that I have encountered as issues needing resolutions where we have had these stops at our quarantine checks at the Lihue Airport. At this point, there are no statistics that are salient that I can provide you that is a crisp example of what a labor violation and who a violator is.

Councilmember Chock: Thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Thank you for your explicit information, Mike. You mentioned the DCCA. To your knowledge, do we already have a State entity that should be policing these contractors and why are going to be taking on a larger role as a County to be policing these subcontractors? Is that what you are telling me?

Mr. Dahilig: Right. That is a concern, Councilmember DeCosta, in terms of where our role is as a permit holder and where we have jurisdiction in being able to enforce laws related to labor, tax, or qualification of work. As I mentioned, the review from the Office of the County Attorney regarding what the Bill can or cannot do relies largely on principles of what is called State preemption. Those types of laws that the DCCA are in charge of or let us say the Federal government are in charge of, we do not have jurisdiction to enforce. That is why the Bill is simply a disclosure Bill. That is all. What we intend to do in terms of how this is enforced, if it is made public record, the complaints or the investigation into how the community observed things and wants to relay whether a violation is occurring can happen a lot more expediently to these other agencies by having this information at our community's fingertips. We are not looking at asking for authority to enforce in violation of preemption principles with the State and Federal jurisdiction.

Councilmember DeCosta: Also, Mike, you mentioned you were going to input the language at the next Committee Meeting about how we were going to exempt homeowners. Now, the question that I have for you is, can we legally distinguish between a general contractor who does commercial buildings and a general contractor who does home and residential buildings? Also, as a homeowner, I believe we still need a general contractor to be in charge of the permit. If that is the case, that general contractor finds the subcontractors for electrical and plumbing, because it is a safety hazard for our community. I do not believe the rest of the subcontractors like painting, drywall, roofing, and/or flooring are safety hazards. Is there a distinction between commercial and residential contractors? Will this affect a homeowner who needs to use a contractor to get a license?

Mr. Dahilig: On the onset, that was a question that was tossed around between our attorneys and me. A lot of the issues surrounding where we can draw applicability have to be drawn in relation to the Equal Protection Clause of the United State Constitution. In order to say these folks have to do this and these folks do not, those elements have to comport with the Equal Protection Clause. There were concerns if we were to say these contractor licenses, but not these contractor licenses, that could be both an Equal Protection Clause issue, as well as an issue with preemption with the State law. We had also looked at values whether those under or over would be exempt or whether things that were residential versus commercial would be exempt. We went through a number of those iterations to again, try to, from a policy standpoint, exempt those who are trying to build their own homes. What is aligned that could be defensible from any challenge was the prospective of having something that is contractor-pulled versus owner-builder-pulled and that is why you see that delineation there. Policy, yes, I think we went through that exercise as you are describing as to what should be or should not be applicable. There are a number of outstanding Federal and State legal issues to make sure that we stay within those bounds of.

Councilmember DeCosta: The next question I have is, did you consult with the Building Division to see how they are prepared to digitally accept these new restrictions and are they fully staffed? I know we reorganized our Agricultural Dedication proposal and we wanted to ensure that our Real Property Assessment

Division was not overworked. I am wondering, is this going to overwork our Building Division? Did you correspond with Leo and Ryan?

Mr. Dahilig: We have had conversations, more specifically, the Office of the County Attorney has had conversations with them. I have had a conversation with Leo regarding this. I understand that there is obviously with any change, concern with whether or not this is going to create more work. That is why, in response with some of those inquiries, that is why we are asking instead for rulemaking authority to empower them to integrate the policy into their current systems rather than having them specifically spelled out by procedure in ordinance. We agree that this should not assume or take up more administrative time than necessary. We are not asking for additional positions for this. Some of the work that is already done with disclosure is already imbedded with ePlan Review. For example, if you were trying to get an electrical inspection, the contractor on the electrical inspection is already asked for as part of the information that is pulled before an inspection is issued. Some of these elements across-the-board are already integrated into the ePlan Review System, however, without going through the process of legislation what the Information Technology (IT) Division can do to implement the policy, we find it best that we leave it up them to figure out how to best create the interfaces and digital processes to meet the policy that would be laid out by this legislation.

Councilmember DeCosta: Is Leo available? Would I be able to ask her about how she feels about this influx of responsibility on her Division? Can she explain it a little bit?

Mr. Dahilig: She is on the line.

LEOLYNNE ESCALONA, Code Enforcement Officer (*via remote technology*): I actually have not had a chance to really review this Bill in full detail with the Administration. We need to have more discussion as far as logistics and implementation. My concern is if we have a homeowner who needs to hire a general contractor to do their work, would this apply to that general contractor? Or if someone is remodeling their home and they have to hire a general contractor, I am hearing that they would need to follow the same rules as far as disclosure.

Councilmember DeCosta: We should be making building easier for our contractors and homeowners. It seems like we are placing another layer of bureaucracy on top of them. Now they have to list all of their subcontractors and not just their plumbing and electrical contractors.

Ms. Escalona: That would be my understanding. I looked Chapter 444, we have a total of sixty-eight (68) specialty contractors. If we are going to do a full disclosure, it would be a design professional to present all the materials in their plan submission and they would have to identify who would be doing the work.

Councilmember DeCosta: You are asking for more time so we can look into this deeper to make sure that every contractor is being able to give an opportunity to present his or her pros or cons on this. I believe this morning we heard from three (3) larger entities, but I did not hear anything from smaller, local contractors. Mike, did we reach out to the local contractors, not just the large ones

who do commercial work? Did we reach out to small contractors who do residential homes?

Mr. Dahilig: Did we reach out personally on this?

Councilmember DeCosta: Yes.

Mr. Dahilig: No, engaged with the union, as well as people who were affiliated as signatories on this matter. We understand that if that is something that the Council would like us to do, to engage with smaller entities, we certainly could. We take it that in terms of how this would affect everybody, it would affect contractors in general. That is where we have these groups that we do engage with. We certainly could find individual contractors here and there, and there are dozens of them around the island, but in our consultation process we worked very closely with the organizations to craft what we find as balanced legislation.

Councilmember DeCosta: Mike, there are more than a dozen contractors on the island. We have quite a bit of contractors on the island. A lot of them are single entities and not large corporations. We should be fair to all entities. What really puzzles me is how this may affect Habitat for Humanity? How does this affect homeowners who want to build their own home, put their own roof on, paint their own drywall, or put in their own flooring to save money. Now are they held to a different legal standard?

Mr. Dahilig: To be clear, elements like that, where people are doing their own work on their own property would fall under owner-builder types of scenarios. That is why in previous conversations with Council Vice Chair Chock, if that needs to be better clarified in the Bill, then that is something that we intend to send as draft language for Committee discourse if this passes first reading. We believe that it is embedded there in Section 15-5.3(c), but if the Council wants to have that be more explicit, then we certainly can do that. In respect to consultation, again, I want to be clear that we did have conversations with both the County Engineer, as well as Leo on the substance of the Bill. The specific language of the Bill certainly if they would like to provide more comments to me, they can do so before we get to Committee if this passes first reading. We certainly can see that there needs to be changes based on testimony that we do need to provide as options for the Council to entertain. That is our intention if it does pass.

Councilmember DeCosta: I have a clarifying question. You mentioned Council Vice Chair Chock. Did you have a conversation with Council Vice Chair Chock?

Mr. Dahilig: We just discussed what would be the discourse earlier on what would be clarifying between owner-builder and contractor pulled permits.

Councilmember DeCosta: I think that language is important, Mike. We do not want to make building harder for our homeowners. Homeowners do have to have a licensed contractor. That is going to hold that contractor to the same regulations as the contractor who does commercial buildings. I do not see how we can legally distinguish between a commercial builder and a residential builder. If we can, great. If we cannot, then we have to hold them to the same standard. We do not want to be discriminatory. Now we are putting a layer of bureaucracy at the

County-level to inspect them and hold them accountable when this is already a State-entity thing. That is what I am reading in all of this.

Mr. Dahilig: Right. Although we may understand that it could be recognized as additional bureaucracy, essentially what would be part of the process is adding additional information into what is already an existing process.

Councilmember DeCosta: Okay.

Mr. Dahilig: While it may seem that we are asking for layers of approvals and different things, the intention here is to not trigger any new permits that are going to be required for disclosure or create additional elements that require them to do anything versus what they are already doing as a consequence of applying for a permit. Just like with any permit process, they have to put their contractor number, address, contact information, the place, and the venue of where they are going to be constructing. What this process is meant to do is ask for additional information to be integrated into what is an existing permitting process. That is the intent. Whether there is enough detail for you to feel comfortable, Councilmember DeCosta, in keeping that goal of lesser bureaucracy in the actual legislation, then we can certainly have those items tossed around with our Building Division. However, our broader range policy in what we believe an attempt to create fair play is simply an attempt to provide information. That is it. No judgment. No review. It is to provide more information to the public.

Councilmember DeCosta: My last two (2) questions...first, are other counties across the State adopting this?

Mr. Dahilig: No, we would be the first as far as we are aware of.

Councilmember DeCosta: My last one, I noticed that you said the fee would be at the discretion of the County Engineer, am I reading that correctly?

Mr. Dahilig: In terms of that fee, in terms of (c), we want to reconcile, and that is why I brought it up during the previous discussion regarding Section 15-5.5, we are not intending to ask for fee authority. That (c) section where that line is there, we are going to be proposing to eliminate that to avoid any confusion. The fees are already nonrefundable as a part of the permitting process in and of itself. That is where in an overlap we were attempting to have that match what is already existing policy with the rest of the fee structure. However, if it is confusing in providing fee authority for the Administration to tack on more money, that is not our intent, and we can provide amendments to strike that out.

Councilmember DeCosta: Okay. The current fees are fifty dollars (\$50) for electrical and fifty dollars (\$50) for plumbing?

Mr. Dahilig: I would have to take a look at the schedule of fees. I know where they are. I am just not familiar with the exact amounts off the top of my head.

Councilmember DeCosta: I think they are. Now, with all the different subcontractors, would you attach a fifty-dollar-fee for the painting, flooring, drywall, et cetera? If the plumbing and electrical contractors have to pay a fifty-dollar-fee, and we are wanting the rest of the entities to be licensed, are we going to tack on that fifty-dollar-fee to every other entity?

Mr. Dahilig: Is there a presumption on your part that for some reason by asking for disclosure that more permits are going to be required?

Councilmember DeCosta: Or more permit fees for the contractor or homeowner. I am trying to interpret what is going on here. What I am saying is that all the different subcontractors are going to have to be listed now so that we have a visual bank of who is on the jobsite. The plumbing and electrical contractors currently pay a fee, would the rest of the subcontractors have to pay a fee? If you are a homeowner, you will have to pay those fees. What happens if you change the flooring subcontractor or the countertop or roofing subcontractors, would you have to pay another fee to change those subcontractors?

Mr. Dahilig: Again, the intention is no. If the language needs to be clarified for that, our intention is not to ask for any additional fee authority with this legislation. If there is a presumption that fees or new permits are going to be required for each of these individual different contractors, I would ask that you take a look at what is the current set of specialized permits that we issue. We are not asking for another set of specialized permits. If a general contractor is working under a building permit that has all these different licensed contractors under it, there is nothing that prescribes each of these individual licensed contractors to ask for a separate permit for their specific work.

Councilmember DeCosta: Thank you, Mike.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I just have a few questions. They are coming from the angle of what I heard as complaints from skilled workers that do not get the work, and also really from sitting in on Planning Commission meetings. I have a jurisdictional question first as it might answer my question before I even get there. At the Federal-level, I would assume the Commerce Clause says that any contractor from within the United States could come in and do the work on Kaua'i. Is that correct? Someone building a resort could bring their workers from Florida. That is legal, right? We cannot object to that.

Mr. Dahilig: There is nothing to prohibit someone from coming into the state to apply for a privilege to conduct regulated commercial activity. That is where a corporation from Florida that wants to come in to Hawai'i, they certainly are entitled to setup shop within the State of Hawai'i, but at the same time, they would need to apply and get the proper privileges to conduct work within the community. For example, when you have something like a bar license or a dental license, you may be trained within that profession, but in order to actually come in and conduct commercial work within the jurisdiction, they would have to get a bar license or a dental license within that state. That would be the similar analysis in how a contractor, let us say from Florida, would have to come in and abide by the laws of the State of Hawai'i.

Councilmember Cowden: Again, looking at Federal jurisdiction, we as a County cannot limit the approval of a project based on the impacts of the builder's plan of how they would direct it...let me give you an example. Very often when I see something before the Planning Commission and they are looking at getting a permit or some sort of variance, they say that they are going to hire four hundred (400) people to build the building, and then hire six hundred (600) people to operate the place. If they hire four hundred (400) people from somewhere else who have to get housed while they come here to do it and their labor force is coming from somewhere else even for operations, I am accustomed to this misleading narrative. Part of the reason that people say, "yes" is that it seems like it is going to help the economy. It hardly helps the economy if you have these people coming and displacing people, working, and sending their money home and leaving. Is there a law that limits that approval based on it? That is never said before the Planning Commission. Why is it okay to do that and to bring that work in from somewhere else?

Mr. Dahilig: We have been asked that question a number of times. I think it is a very salient question given what I believe is a widely held view that you raised that is valid with a lot of people. If we are going to have economic activity on island, we want to keep our dollars here. If we want to do that that includes notions of fair play that we would need to promote. When you look at what happens with the Planning Commission approvals, a lot of times there is a condition that encourages who they hire, but at the end of the day, because it is a public entity and a governmental entity in the process, they cannot by condition require it. There are generally, on a lot of the larger jobs, kind of a suggested practice or suggested course of business methods that a permittee would be given by the Planning Commission to conduct themselves in a manner that supports our local economy, but because of Commerce Clause types of issues, we cannot require it because that could run afoul of the right-to-travel issues that we could face for individual workers.

Councilmember Cowden: Okay. I guess I just have to accept that. When it comes to the Planning Commission, it is before a contractor is even planned, right? We do not even get to see that. We cannot take that disclosure that you are discussing here in this Bill and have that discussion at the Planning level. What I am routinely seeing is that people need jobs and all this stuff, but they do not get the jobs and in fact they lose their housing to whoever has the job temporarily. We have a real issue of all this development that has this displacement. My last question is just regarding foreign workers. I do not have something against foreign workers, but what I do get complaints on is that people come in and they are actually coming in from another country. There are still workers here that could do that job. Is there anything in this disclosure where they would have to say if they are bringing people from a different country in to do the work?

Mr. Dahilig: That is a good question. I will say that there are two (2) ways to answer it. In terms of specifically who, where, and what is being brought in, our intention is not to get to such a degree of granularity that every single person would be listed. We start to get into the realm of some privacy concerns that could essentially now raise additionally challenges to mandatory disclosure. What we would expect as part of the disclosure process is that there is enough information for people to understand whether an entity like a contractor or subcontractor is on

premises. Who is working for that contractor...there should be someone responsible for that group of people. That responsibility element is what we are looking for. On the other side of the token, it becomes a question of violation. In terms of violations or disciplinary action, the way that a business conducts itself is also an important element in understanding those notions of fair play. If they are in violation of Federal Labor Law standards for not paying proper wages, if they are not paying their taxes, and if they are not renewing their licenses on time, those are all things to...there are already existing safeguards within our conjures of laws to support notions of fair play. For those instances that you are raising where individuals come in that may be "foreign workers" we would expect that they have their Green Cards, that they are proper with the Immigration and Naturalization Service (INS), that they have not been assisted by a contractor in coming in without the proper paperwork, et cetera. Those are all things that we look to have the contractor that sponsors them be responsible for, and not necessarily the individuals themselves. That is where the disclosure of disciplinary actions or violations gives rise to the questions of whether somebody is conducting themselves under notions of fair play.

Councilmember Cowden: Okay, thank you.

Council Chair Kaneshiro: Are there any other questions from the Members? Councilmember Carvalho.

Councilmember Carvalho: Mike, I wanted to follow up overall. Again, in this residential-type owner-builder permit process and on the commercial side...listening to some of the contractors this morning...more at the State-level, if we are handling it at the Building Division and what we need to do to work together, have you gone through that discussion? I think that was asked of you already, but if you could answer that for me. At the State-level, I think it is pretty much a statewide issue that needs to be handled there, and we are the County now supposedly at the forefront, could you clarify that?

Mr. Dahilig: To answer your second question first, Councilmember Carvalho, again our intent for this Bill is simply disclosure and public information. We are not asking any of our Building officials to add to the additional process of verifying individuals onsite. That is not our intention. We are not asking for our folks to go and follow up on labor complaints. That is not the intention. That, to answer your second question, the simple answer would be that what is being asked here is information. In terms of the first question that you raised with the dialogue that has been a concern of those within the contractor community about notions of fair play, yes, a lot of the items are State and Federal jurisdiction. That is what we have had to operate in, but we are empowered to do, without running afoul of preemption, concerns at the Federal or State levels. That is why you do not see fines being attached to the Bill. That is why you are not seeing instructions of how to conduct work being attached to the Bill, other than listing who is going to be working on the property under a contractor-pulled permit. Again, to reemphasize the difference between what would be applicable or not applicable, if something is an owner-builder residential-type of scenario, yes, they would not have to go through this process. If it is a contract-pulled permit, then they would have to disclose initial information.

Councilmember DeCosta: I have a follow-up.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Mike, I do not want to say you are wrong, but I might have to say you are wrong on this one. If you are going to take out a construction loan, you need a licensed contractor. Any bank will not give a homeowner a loan to do a dwelling if you do not have a licensed contractor. If you have cash in the bank and you want to pull fifty thousand dollars (\$50,000) out and you want to be an owner-builder, then I believe you do not need a licensed contractor. Tell me how this is going to affect homeowners? I would like to think that a lot of them would have to go to the bank to get a loan. How is this not going to affect them? You just told me that it is not going to affect homeowner-builders.

Mr. Dahilig: Let me be clear in terms of what this is intended to apply to and what it is not. If it is a scenario where a general contractor is being asked to sponsor a permit, that is required under Hawai'i Revised Statutes (HRS) Chapter 444, then this is where it could be applicable. In terms of what that could entail, it could entail residential, commercial, industrial construction, or construction related to government purposes. All of those elements fall into that bucket. By State policy under HRS Chapter 444, there is an exemption for owner-builders. Those owner-builders are predominantly folks working on their own homes or they will act as the general contractor themselves. That is not intended to be folded into the area of larger disclosure, simply because they themselves are going to be directing the work on the property, and they will be responsible for what happens on the property. Nevertheless, when you look at HRS Chapter 444, there are a number of types of actions that are required to nonetheless be done by a licensed contractor, take for example plumbing and electrical. In those circumstances, if it was made clear and again we suggested that that would be language that needs to be pulled into the text of the Bill, that if their organic permit or the initial permit that was pulled on the property was an owner-builder permit, those types of scenarios would not be applicable. We do concede that yes, if we disagree on the policy, Councilmember, that is why we have this public discourse through lawmaking, that we believe that if a contractor is going to be pulling a permit and under State law attesting that everything is going to be on the up-and-up, that they should be conducting themselves with the notion of fair play. It could impact residential construction if a general contractor pulls the permit. I do not want to make any bits and pieces about it being otherwise. It is also within the realm of commercial, industrial, and government construction, or any time a permit is pulled by a contractor. On the owner-builder side, which tends to be more of the residential side, it is not everybody, but that owner-builder side for residential, which is predominantly is residential would not be applicable in this circumstance.

Councilmember DeCosta: Mike, it seems like we have to put quite a bit of language in this Bill to get my vote. I think several times you said, "If you want to include this in, then I think we can." I think there are few points that need to be made to protect our homeowners and to protect our homeowners who use a licensed contractor to get a loan to do an ADU or a full home. I would like to see distinction in writing between a contractor who does commercial and a commercial who does residential construction. I would like us to also reach out to the local contracting community and single entities, to let them give their input. I do not think they did.

Mr. Dahilig: I would suggest in response, Councilmember DeCosta, that with that particular delineation, the County Attorney had given us an opinion about an option to do that. If you would direct that question to the Office of the County Attorney, I am sure they could give you the same analysis we received about being able to draw that distinction.

Councilmember DeCosta: Is Matt on? We can ask him right now. Matt, did you get the question or should I repeat it.

Mr. Bracken: If you could repeat it, I would appreciate it.

Councilmember DeCosta: Matt, can we as a County legally separate a commercial builder and a residential builder? Can we do two (2) separate rules and regulations for each entity?

Council Chair Kaneshiro: Matt, if you cannot answer it on the floor, we can send it over in writing. This is only first reading.

Mr. Bracken: I can partially answer it for you. If I do not cover everything you can send it over in writing and we can address it further. In a lot of ways, the County cannot regulate contractors. HRS Chapter 444 is how contractors are regulated. They are regulated by the State. That partially answers the question. We really cannot regulate contractors in a lot of senses. Could we distinguish them in this Bill? Yes, you likely could. When you are distinguishing parties, you basically look at the Equal Protection analysis. Is it a protected class versus a non-protected class? Are two (2) different kinds of contractors a protected class? No, they are not. You could generally probably distinguish them in some way, it just depends on how and why you want to distinguish and then articulating why you want to do that. It kind of depends on what you want to do. Yes, you could probably distinguish between the two (2).

Councilmember DeCosta: Thank you, Matt.

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: I had a question for Mike Dahilig. It might need to be a follow-up question. I think so much of the conversation here is revolving around owner-builder. I had applied for an owner-builder permit, but I am not super clear on what the limits there are as far as hiring a general contractor and switching it up. As it pertains to (c) in the Bill, it would be good to get maybe a memorandum as a follow-up laying out exactly what owner-builder entails and in what circumstances (c) would be triggered. What qualifies as ceasing to employ the owner-builder exemption and engaging a contractor for any phase of work. My understanding was you could hire a general contractor to help you with some of the work. Maybe a response just laying out what an owner-builder is and how (c) would be triggered. My other question that can be answered now is, if any provision...say a contractor does hire somebody during this process and they do not properly disclose them or this person has grievances against them, I do not see any penalties for that contractor, is the permit revoked or what actually happens?

Mr. Dahilig: We went through that analysis of what would be that enforcement element for this. At one point, whether tying up our Building Division's time in chasing enforcement actions for people who are actually falsifying information or not disclosing information would be the best use of their time. We believe that what you picked up on Councilmember Evslin is by intention. What would be stated as part of the overall disclosure is already folded into many documents throughout not just the Building Division, but across the whole County, is if you falsify something under sworn signature is considered an unsworn falsification under the State Penal Code. If you file a false, tax return there is a criminal penalty for that. If you file another document that has that statement like a false time sheet, that is considered a penalty too. The same unsworn falsification statute that applies to all engagements throughout our County from a business transaction standpoint would be applicable in this case. We are not looking at the revocation of the permits. We do not believe that is an appropriate mechanism for us to start contested case hearings. It simply would be a scenario where if somebody decides to withhold, not disclose, or put false information down, then that is considered an unsworn falsification before a governmental agency.

Councilmember Evslin: Just to clarify, say the contractor applies for the permit and he got his team all set on there and everything is all good, then there is some change in the process. He may hire some other individual who there is an issue with, and he does not properly notice the County, that is still considered an unsworn falsification?

Mr. Dahilig: At this point, there is an obligation under what is presently Section 15-5.3(c) that any of these elements trigger a change. If at that point there is cause to say that it is by intention or that it is not, then that becomes more in the realm of what is a penal code analysis versus something that we would enforce on. Any type of unsworn falsifications that do have a scenario that they are intentionally not filing it, the intention would have to be sorted out by the Office of the Prosecuting Attorney as something that was meant to evade the law versus something that was unintentional.

Councilmember Evslin: Is the intention here that the Office of the Prosecuting Attorney will be enforcing this?

Mr. Dahilig: Again, it comes down to the penalty that you asked for is unsworn falsification. I do not have the specific...it is in the 700 series of the HRS, but analysis on whether somebody is going through that process of either evasion or falsification will be analyzed by the Office of the Prosecuting Attorney if a case were to be referred over to them. Again, those referrals come from any which realm. They can come from the public as complaints, from governmental agencies, et cetera. Ultimately, the penalty analysis, there is not a civil fine or revocation that is intended on this one, it would simply fall back to unsworn falsification.

Councilmember Evslin: Okay, thank you.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: Mike, in your comments earlier, you had said that you will propose additional language on the applicability to make sure who the Bill is aimed at and it is not aimed at owner-builders. Has anything been worked on yet? I think the interesting thing will be...and it will be in Committee soon...to see that and to work on that. While you said that you tried to make the distinction between contractor-pulled versus owner-pulled, when we heard from Leo, that is where we then get the concerns about owner-builders. I think, maybe this is oversimplifying it, but maybe it is less about contractor-pulled versus owner-builder-pulled or versus residential, but maybe it is about whether you are building a single house or multiple houses. I think some of the testimony we received, especially from the Carpenter's Union was about big job and bringing in illegal labor, not treating them right, not paying benefits, not paying their taxes, et cetera. Maybe just a single home construction...could an owner-builder not use a contractor but still take on the responsibility of an owner-builder? In that instance, can a contractor that the owner-builder is hiring act as their agent and go in and pull the permits, but it is still an owner-builder permit? It might be a matter of process on how we are treating it to allow that distinction.

Mr. Dahilig: To answer your first question, Councilmember Kualii, regarding language, in terms of language, that is something that we do have to work on. In terms of turning the Bill over to the Council, we believe it had the distinction folded under that section that I referred to earlier, which is subsection (c). I think we understand that there needs to be distinction between who it applies to and who it does not apply to. That is where at least for our intention going into the dialogue with the Council, it was meant for owner-builders to be exempted out of this requirement. However, as you were describing in the latter part of your question, we again are wanting to have this also be making economic balanced sense in the respect of at what point does a job because of its size and complexity, become that much of a different force on island that we run into issues of fair play when people are not playing by the rules. Those were the discussions that a lot of the stakeholders started off with straight out of the gates. We agreed around the room that having some threshold for enhanced disclosure should be put into play. At this juncture, based on advice from the Office of the County Attorney, we were able to cobble together at what is that line. Certainly, if there is another opportunity for drawing that line, I think everyone around the table would agree that that needs to be done someday somehow. I would suggest that as Matt Bracken described to Councilmember DeCosta, that some of that information of the boundaries of running afoul of State or Federal preemption and Equal Protection types of issues, up to what boundary can we go up to without running afoul of any of those elements be triggered. If there is another way to cut the pie, by all means we are open to dialogue on that. We do recognize the validity of what the Council and what many Members have brought up in terms of who this should be applicable to. We agree that it should be applicable to those types of jobs that start to get into that larger complexity or impact our society while preserving the opportunity for our local homeowners to do work on their homes without any interference.

Councilmember Kualii: Thank you.

Council Chair Kaneshiro: Are there any further questions from the Members? Councilmember DeCosta.

Councilmember DeCosta: I do not know if I have any further questions. I will wait for final discussion.

Council Chair Kaneshiro: While the rules are still suspended is there anyone in the audience or on Zoom wishing to testify on this item? Lonnie.

Mr. Sykos: Mr. Dahilig, thank you very much, as well as the County Attorney and the Department of Public Works for writing this extremely important consumer protection legislation. I read this thing apparently unlike some of the Councilmembers. It is absolutely utterly clear that it only applies to licensed contractors. Now, as a homeowner, I am utterly offended that some of the Councilmembers think that it is in my advantage that the contractor I would hire to help me in my house through an owner-builder permit or let the contractor do the whole thing, that because I am a homeowner, I should be able to easily find out if the contractor is guilty of malfeasance in the past. That is what Mr. Dahilig is letting us do. When we go to do a project in our house, we can go to the County and find out if the contractor has "dings" against them and we are told in advance who he is going to hire as subcontractors so that when we get in the middle of the job, it is not "Poly-man," the best mason on Kaua'i, it is some guy from Guatemala, California, O'ahu, or even here on Kaua'i that is not the best mason "Polyman" and now I have to get some other guy. These issues can be dealt with by the consumer very easily by what the County wants to do, which is make the contractors publicly acknowledge what their record is. That is all they are asking. What is your public record? When they go in to pull a permit, they are going to take fifteen (15) seconds to check some boxes about whether or not they have an outstanding ding against their license, whether they are being sued, who is going to work for them, and whether or not they have licenses. If a painter is going to do a job of a certain amount, he has to be a contractor. If a glazer is going to fix windows, et cetera. You have to hire contractors to do certain things for better or for worse, it is in the public's interest to know what their public record. That is all that this is about, is helping us to do that. I had one question about "as soon as possible" in lines three (3) and four (4) of Section 15-5.4. It is a subjective and not an objective definition.

Council Chair Kaneshiro: Lonnie, that is your time. You can back for another three (3) minutes. Is there anyone else wanting to testify?

Mr. Lindner: I do not quite see it like that. First of all, the information thing and where that information goes...Mr. Dahilig was a part of the Planning Department. I believe he ran that. Real Property will charge people Vacation Rental...they will charge people Commercial for their property. Somehow that does not get back to the Planning Department. It does not quite cut it that all of this information is going to be equally distributed. Also, the agencies have a lot of discretion. You have to worry about targeting as well. Basically, if you start with the contractors, it is going to go to the homeowners and it is litigation. The whole information thing, how is it that Real Property taxes someone as a Vacation Rental and the information does not get to Planning? That is all I have to say.

Council Chair Kaneshiro: Thank you. Is there anyone else wishing to testify for their first three (3) minutes? If not, Lonnie.

Mr. Sykos: I had a question for Managing Director Dahilig. Section 15-5.4 lines three (3) and four (4) have the phrase, "as soon as practical" and this has to do with as I remember the timing of the reporting requirement. What is listed there is a subjective and not an objective timeframe. Rather than "as soon as practical" would it make it more practical or enforceable to create a due date that is an actual number of days versus the phrase "as soon as possible." That is my only question for the Administration. Otherwise, I think they did a great job and I thank them very much.

Council Chair Kaneshiro: Thank you.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Are there any further questions from the Members? If not, is there any final discussion? Councilmember DeCosta.

Councilmember DeCosta: I am not sure of the process, but I would like to say that we have too many loopholes right now. There is too much language that needs to get inserted into this Bill. This Bill needs to be reworked. It is not just one (1) clause. Our attorney stated that he cannot determine jurisdiction between the commercial and the residential contractor who builds the home. Legally, he cannot. We are not here to be a pin cushion for lawsuits. Those are taxpayer dollars, and we have to be responsible for that. The last thing, I am concerned that the State's responsibility is to be the police. No other county is doing this and now Kaua'i wants to absorb more responsibility within a Building Division and we heard Leo say that they did not have enough time to read into the Bill and come up with a plan. Digitally, we are not ready to absorb all of these permits and will have to do it manually handwritten.

Councilmember DeCosta moved to defer Proposed Draft Bill (No. 2873). The motion failed for the lack of a second.

Council Chair Kaneshiro: With a motion to defer there is no further discussion. I know Councilmember Cowden wanted to talk. It is only first reading so it would be going to public hearing and then to Committee. Deferring would not really do much I do not think. If it gets to Committee, then you could defer it. Deferring it on first reading would just push out the public hearing on it.

Councilmember DeCosta: Can I ask you a question, Council Chair? I can see if we had only one (1) amendment that we would have to include in. It seems like there is quite a bit of things that would need to be reworded or written into this. If we want to wait for Committee that is fine, but I just felt this Bill needs to be reworked.

Council Chair Kaneshiro: That work should be done in Committee.

Councilmember DeCosta: Okay.

Council Chair Kaneshiro: If there are changes that are significant that needs a new bill, then that is the time that the discussion would come through our attorneys that the changes they are trying to the Bill are too significant and maybe a new bill needs to be drafted. The two (2) bills could run together. Committee would be the appropriate time for that.

Councilmember Cowden: I have a follow-up.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I have a follow-up on your request for this. Can we make it so that the Committee Meeting is a month out, so that there is more time to really work on it in the background, with these smaller job contractors can be communicated with? We can schedule the Committee Meeting out a month, correct?

Council Chair Kaneshiro: The Committee Meeting is already going to be over a month out because the public hearing is going to be in a few weeks, then the Committee Meeting will be in a few more weeks. In this case the public hearing is going to be in a month. It is already over a month out.

Councilmember Cowden: Okay. Can I ask you, the Committee Meeting would be over six (6) weeks out, so some work could be done and if it turns out a whole new bill would be needed, then we can figure that out at Committee?

Councilmember DeCosta: I am a little worried that no small general contractors who build residential homes on Kaua'i were reached out to or spoken to. I would like to see much more community inclusion and much more discussion. If that month from here or at Committee will allow that to happen...

Council Chair Kaneshiro: I think the time between now and the Committee Meeting would be the time for that conversation to happen. I think the Administration heard your concern about it. They know they need to do some outreach and hopefully by Committee they can say how much outreach has been done.

Councilmember Kualii: We can too.

Council Chair Kaneshiro: Yes.

Councilmember Cowden: Yes.

Councilmember DeCosta: Do I have to pull back my motion to defer?

Council Chair Kaneshiro: No one seconded it.

Councilmember DeCosta: You did not give anyone the chance to.

Councilmember Chock: Make the motion again.

Councilmember DeCosta moved to defer Proposed Draft Bill (No. 2873). The motion failed for the lack of a second.

Council Chair Kaneshiro: There is no second on it.

Councilmember DeCosta: Okay.

Council Chair Kaneshiro: Is there any final discussion? Councilmember Cowden.

Councilmember Cowden: I feel like this Bill really has opened an important conversation. It just scratches the surface of what I can see as an industry of displacement. Councilmember DeCosta raises really legitimate...I will wait for your attention if that is okay. I was even speaking to you.

Councilmember DeCosta: I am sorry.

Councilmember Carvalho: I am sorry.

Councilmember Cowden: Councilmember DeCosta raises legitimate concerns on the increasing difficulties for homeowners. We want to make sure that we do not throw the baby out with the bath water with this Bill. I want to pay attention to that. It also raises these larger issues of economic extraction through real estate potential. We have people all upset in Po'ipū, Kōloa, and all over the place. These projects often have little local benefit. Sometimes these large contractors come in from somewhere else, they choose the cost of housing and travel for their non-resident construction team to build projects that are for non-resident markets. It is hard to even see who benefits when you have this. I get that it is not easily the County's place to be limiting that, but I am really glad that this issue came up. I want to say that the stay-at-home order and the pandemic quarantine policies, to me, they really placed these routine practices in sharp relief. This gets back to the smaller roofer or contractor, because I got a number of complaints where we were seeing small- and medium-sized jobs like painting or re-roofing a house being addressed by an O'ahu contractor team whose workers were coming and going with full freedom. I would be running into them at Home Depot or getting some food and our local roofers or painters were unemployed, so they had to stay home so they would not get somebody else get sick while we were letting people come in and out from O'ahu, Maui, or wherever else. Two (2) years ago, I was really stinging from seeing this deep contrast. I think what we are seeing is we have a problem and I agree that giving six (6) weeks to go out and look for the nuances of what makes it right or wrong, or maybe it is never right, but we are exploring something so that we have consumer protection as was mentioned by a speaker, but also worker protection, and subtly, housing protection, so we do not displace our residents for this migrant work that comes with this industry.

Council Chair Kaneshiro: Does anyone else have any final discussion?
Councilmember Evslin.

Councilmember Evslin: Briefly, I will say that I largely agree with the overall intent here and it is important to ensure that there are protections against companies coming in and utilizing unfair labor practices or with grievances against them underbidding other firms. We need to try and figure out possibilities to reign that practice in. This general direction seems like it could do so. However, as has been said, this conversation was fruitful today in recognizing that we do not want to do that at the expense of making it harder for somebody to get a permit, especially an owner-builder, the person getting a permit for their house or an addition to their house. We do not want to add undue regulations to that. Hopefully we can try to thread this needle when we get to Committee. It sounds like the Administration is certainly willing to assist us in figuring this out here. I think we certainly have a lot more work to do when we get to Committee.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I want everyone to know that if we can legally make a distinction between commercial and residential building, I am all for supporting this. I am all about keeping our local union workers working. This came about said by somebody this morning in testifying that the building of the hotel out on the North Shore, was awarded to another contractor or commercial entity and they did not get it. That was the whole thing about why this came about. This did not come about because local contractors and homeowners who are getting a licensed contractor to do their work. I think I would feel much better if we can come up with language that can separate and legally we are not opening up ourselves to a lawsuit, then I would support separating the language and making sure that the homeowner and the homeowner that gets a licensed contractor...to get a loan from a bonifide bank, they have to get a licensed contractor unless you are using cash out of your bank account. If we can separate that, I would feel much better, and I also want to have the language embedded in this Bill. I also want to be sure that no fees are going to be attached and if there is a movement of subcontractors, that the homeowner and the licensed contractor will not be held up in building their home because now the flooring guy had an emergency and had to take care of that. Now they have to find a different flooring guy and that homeowner or licensed contractor would be in default or would have to hold down their job performance because the County is not ready to sign off on that permit. We are trying to make building easier than difficult. The last thing I want to say, only because Councilmember Evslin and I worked over a year with the next Agricultural Dedication Bill with the Department of Finance, I would like to see the Administration work a little closer with the Building Division, so they can hash out some of those issues so that the Building Division feels competent that they can accept this and be ready to go with it. Thank you.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: For me, following up to what was just said. The Building Division needs the support from what I understand in getting them to a place where they can do what they need to do with whatever resources. In the bigger picture, I too support the separation of homeowner from commercial. If there is a way to do that, I think that is the step to take per this discussion. I think it is a good thing that we need more time to open it up and talk about it. There needs to be

that distinction as we move forward as far as I am concerned. I just want to see that we have more of that type of discussion and go forward. Overall, it is about the homeowner having that opportunity to do what they need to do and the commercial side taking it to another level and taking that additional step. I hope we can get to that level.

Council Chair Kaneshiro: Does anyone else have final discussion?
Councilmember Kuali'i.

Councilmember Kuali'i: I just wanted to say thank you to the Administration. I think this is an important Bill. I do not think it is as complicated of a Bill as we are making it out to be. This has a simple focus and that is about disclosure. We received testimony from a broad range in our community. We have a letter from the Carpenter's Union, a long-time construction company, and from a long-time community activist and they are all in support. The reason they are all in support is that it is a good thing to level the playing field so that there are not bad actors and to have our County play a role when we are issuing the permits to begin with, that we are issuing it to good actors. We are at first reading; the Bill will come back to us. The language distinguishing between contractor-builder and owner-builder will help us. It is a Bill just about disclosure. This is not a Bill creating additional restrictions and not a Bill creating additional fees. None of that. There are other concerns that I am hearing from my fellow Councilmembers that we care about, but that will probably take other bills. Thank you.

Council Chair Kaneshiro: Does anyone else have final discussion? If not, we will take a roll call vote.

The motion for passage of Proposed Draft Bill (No. 2873) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for August 3, 2022, and that it be referred to the Public Works & Veterans Services Committee was then put, and carried by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, Evslin	
	Kuali'i, Kaneshiro	TOTAL – 6,
AGAINST PASSAGE:	DeCosta	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes, one (1) no.

Council Chair Kaneshiro: With that, we are coming up on lunch. I am going to take a recess.

There being no objections, the meeting recessed at 12:10 p.m.

The meeting reconvened at 1:30 p.m., and proceeded as follows:

Council Chair Kaneshiro: Welcome back, we are on page 5, Bills for First Reading.

Proposed Draft Bill (No. 2874) – A BILL FOR AN ORDINANCE AMENDING SECTIONS 25-11.1, 25-12.1, 25-13.4, AND 25-13.9 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO SEWERS

Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2874) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for August 3, 2022, and that it be referred to the Public Works & Veterans Services Committee, seconded by Councilmember Cowden.

Council Chair Kaneshiro: Troy, if you want to give us an overview, or I believe we might have consultants that will do a presentation.

There being no objections, the rules were suspended.

TROY K. TANIGAWA, Acting County Engineer (*via remote technology*): Troy Tanigawa, Acting County Engineer. Thank you, Council Chair and Councilmembers for the opportunity to testify on this agenda item. This Draft Bill proposes amendments to the sewer rates provided under the County of Kaua'i, Title 10, Chapter 25, relating to sewers. It has been just over seven (7) years since the last sewer rate revision, and this measure has been supported by a recent in-depth study of the Wastewater Division's current and future needs. A rate increase was originally introduced to the County Council back in early calendar year 2020 but was retracted at the onset of COVID-19, and adopting the proposed rates now, will help the Wastewater Division address necessary operating and deferred maintenance type costs which will be discussed in more detail in the presentation that our team has prepared to deliver. Now, I will turn the microphone over to Acting Wastewater Division Chief Donald Fujimoto and his team.

DONALD FUJIMOTO, Acting Chief of Wastewater (*via remote technology*): Thank you, Troy. Council Chair Kaneshiro and Honorable Councilmembers, thank you for putting us on the agenda for this very important issue. Back in 2015, the Brown and Caldwell Industries experts in wastewater were hired to look at our rates and reevaluate our financial needs. Wastewater is an enterprise fund; sort of like a public utility that require the revenues to pay for the expenses for all of its users. With that said, Brown and Caldwell selected FG Solutions who are specialists in looking at rate studies and how to evaluate what is needed and how to do it. With that said, we have two (2) of the experts from FG Solutions, Art Griffith and Debi Fortin. They are both from New York City. They are really good at this, and I am glad we can do this virtually, because otherwise they would have to fly over to do this presentation. They developed a very good PowerPoint which explains everything and why we need this. With that said, I will turn it over to you, Art.

ART GRIFFITH, FG Solutions (*via remote technology*): Hello, Councilmembers and members of the public. Thank you, Donald. I am Art Griffith

with FG Solutions and what I would like to do is share a presentation, so I will start it as a slide show. Donald, can you confirm that you can see that, please?

Mr. Fujimoto:

Yes.

Mr. Griffith:

Thank you. Here is what we are going to talk about today; we are going to talk about why to consider sewer rates and sewer rates increases now, the Wastewater Management Division and the services it provides, Capital Improvement Projects (CIP) which you will see are a big part of why there is a proposed rate increase, and then the results of the rate study, and that is where we, as consultants, were put to the divisions to identify proposed rates for the next five (5) years.

Why consider a rate increase now? That speaks to the benefits that the Wastewater Division provides to the community. You will hear about some capital projects that will save the wastewater system money, but it is also about providing reliable sewer service to support your existing customers, to support new housing developments, to provide that capacity, and to provide reliability of sewer service, and in areas where there is potential for new industrial development, the jobs and the tax base that comes with that. You will hear about some of the capital projects that will allow for better management of limited potable water resources on Kaua'i. Also, preventing the cost of emergency repairs, the environmental benefits that are provided by the Division and what the Division needs to do over the next five (5) years in terms of investment in its facilities. Further, there is a backlog of deferred maintenance and repairs, and addressing that backlog will avoid the threat of descent decrees, control future costs, and allow the Division to plan for future needs.

Mr. Fujimoto:
that on your end?

Art, I am not sure, but there is a gray box. Is

Mr. Griffith:
my screen.

I do not think so. I do not see a gray box on

Mr. Fujimoto:

That is okay.

Mr. Griffith: I will try this again. We are going to talk about what the rate increase pays for. The rate increase pays for repair and replacement of aging and broken equipment, deferred maintenance, projects that will allow the reliable and affective conveyance and treatment of wastewater, saving utility money, and benefiting the local environment. Now, we are going to talk about the Wastewater Management Division, and we are going to start with the mission statement. The mission statement is to protect the public's health, safety, and the environment by developing and operating the County's wastewater infrastructure. This is a public health service, safety service, and its environmental protection. The

Division manages, in today's dollars, over two hundred eighty million dollars (\$280,000,000) of assets; most of that is underground, but there is a lot that the County has already invested in its wastewater system. A lot of it is over forty (40) years old. There are four (4) wastewater treatment plants, there are sewage pump stations, and there are sewage infrastructure; fifty (50) miles of pipes, thirty-seven (37) full-time equivalent staff work in the Wastewater Division. It takes a certain skill set to pull this all off. There are engineers, accountants, chemists, operators, electricians, line crew, mechanics, and the Administration, which manages all of those skills. We are going to show some maps. This is a map of the island, showing the locations of the four (4) systems: Waimea, 'Ele'ele, Līhu'e, and Wailua. There are approximately five thousand five hundred (5,500) accounts, most of them are residential, and some are commercial. In comparison, the Department of Water has about twenty thousand (20,000) accounts. I have a question for you, is that black box still there, because it does not show up on my computer?

DEBI FORTIN, FG Solutions (*via remote technology*): Yes.

Council Chair Kaneshiro: We have a hard copy of the presentation, so you can keep going.

Ms. Horton: It is in the presentation. What is that?

Mr. Griffith: Sorry to interrupt this.

Councilmember Cowden: We can see because we have a hard copy, so we do not have a problem reading.

Mr. Griffith: Okay, I appreciate that. Thank you for the clarification, and I apologize for that. There are four (4) systems: Waimea, 'Ele'ele, Līhu'e, and Wailua. Showing some maps of the Waimea system, you can see on the blue lines that are the sewer pipes that are in the ground. There is a wastewater treatment plant, four (4) pump stations; the wastewater from the treatment plant is disposed of via injection wells, but it also produces recycled water, and in one case where it says R-1 irrigation to Waimea Athletic Field; that is a project that is under construction right now.

The 'Ele'ele plant, you can see the pipes serving 'Ele'ele and Hanapēpē. You can see that there is a treatment plant, three (3) pump stations, and four (4) injection wells that dispose of wastewater affluent.

The Līhu'e system is the largest of the four (4) systems; six (6) pump stations, also affluent disposal from injection wells, and also producing recycled water.

Wailua has an ocean outfall with seven (7) pump stations, and producing irrigation water to Wailua Golf Course.

We are going to shift gears and talk about the Capital Improvement Projects and the Capital Improvement Plan. This is the list of what the Wastewater Division has put together and each of these projects—there are a lot of them—tells a story about why it is necessary and the benefits that it provides. As you can see from this list, when you add the planning and design costs of almost twelve million dollars (\$12,000,000) to the construction and construction management costs, it is over one hundred million dollars (\$100,000,000) of improvements over the next five (5) years. What we are going to do now, is talk about some of these projects, not all of them, but we are going to highlight a few.

The Hanamā‘ulu and Kapaia Sewage Pump Station renovations; this involves upgrading and replacing antiquated equipment so that the facilities will be modern. They will be able to accommodate additional flows from other subdivisions, and it will make them better, more efficient, and more reliable to maintain.

At the Līhu‘e Wastewater Treatment Plant, there is something called the process improvements and what that is, is replacing two (2) of the treatment plant components; the headworks is at the beginning of the plant, and that equipment is old, antiquated and requires almost constant attention and frequent repairs. This would replace it with modern equipment that will work better, be more reliable, and will reduce the requirement to spend as much time maintaining it, so that the employees can do other proactive types of maintenance. It will also repair a secondary clarifier which will allow the treatment plant, as a whole, to meet the capacity that it is permitted for, which will allow for capacity to serve additional development in the Līhu‘e area.

Wailua Wastewater Treatment Plant, National Pollutant Discharge Elimination System (NPDES) is an acronym for the regulation to discharge permit that governs the quality of the affluent going to the ocean outfall. What this project will do is, it will improve the distribution of recycled water to the golf course, again, more efficient use of a limited resource, it will also modify the outfall diffusers so that it will work better, will lessen the chance that they will clog, and will work as it is designed.

Also, at the Waimea Treatment Plant are additional improvements and what that will do is include upgrades to the treatment process so that the recycled water can be more reliably produced, but it will also upgrade the electrical system to 208 volt to 480 volt, and this is replacing antiquated equipment where parts are difficult to obtain. It will also reduce the power bills at the treatment plant, so you have to spend some money to install modern equipment, but you are rewarded by reduced power bills afterwards.

The Waimea wastewater distribution system upgrade to produce recycled water that will allow the Waimea Athletic Field to use recycled water is scheduled to be completed this summer. It is a cost-effective water source that voids the use of potable water for irrigation, and it will save the athletic field money in terms of what it costs to provide irrigation.

Another project at Līhu‘e is the digester upgrades. Digesters at a treatment plant produce biosolids; it is one of the latter steps in the wastewater treatment process, and right now, those biosolids are disposed of in a landfill. What this will do

is it allows for the production of reusable biosolids, it will reduce minimize the amount of biosolids that are being disposed of at the landfill, saving the Division money, extending the life of the landfill, and provide environmental benefits. So, these are just some of the examples of the capital improvements that are necessary.

I am going to switch gears and talk about expenses. This table on this slide shows for each row is the fiscal year that just started on July 1st through Fiscal Year 2027-2028, and these are the projected types of expenses. Right now, in Fiscal Year 2022-2023, the bulk of the expenses are to operate and maintain the system. You can see that over time, these expenses are projected to increase primarily with inflation, but there are also projects that reduce power bills that are factored in as well.

Cash funded capital. Right now, going back to the capital improvements, there was a lot of design of these capital improvements, and in the past, those designs could be funded rolling it into debt service loans for low interest money that was available through the State. The State has changed how they fund design, and now these projects need to be funded—they cannot use that low interest one point five percent (1.5%) interest rate loan, so instead they need to be funded out of current revenues. There is debt service for past improvements that the Division is still making payments on, and there are future loans anticipated for the construction of the improvements that we were talking about. We can see that the annual expense is projected to increase from about thirteen million dollars (\$13,000,000) to twenty million dollars (\$20,000,000) a year in the next five (5) years. The bulk of the increase is for the capital improvements, the debt service on the capital improvements, but the largest component of expenses is still to operate and maintain the system.

Here is the same data, but in a chart. This thick green line is operation and maintenance that is still the majority of the Division's expenses. This purple bold right here is cash funded capital for design of capital improvements. The thinner maroon stripe is for debt service on existing loans, and this salmon-colored stripe that gets bigger over time, is debt service on new loans as the capital projects are built.

As Donald mentioned, this project started several years ago, and in 2020, there was a conversation that we had with the Council, and at the time, there was a good discussion of General Fund support. Currently, the Wastewater Division rates are not high enough to pay for all of the expenses associated with providing wastewater treatment. In 2020, we talked about three (3) different scenarios, we showed rates that completely funded all operating budgets and capital budgets, then we had lower rates that had a greater amount of General Fund support, and it is a tradeoff here. For the higher the General Fund support is the lower the sewer rates would need to be to pay for expenses. The majority of the discussion covered this middle scenario about one million five hundred thousand dollars (\$1,500,000) a year support from the General Fund, and that is what we have continued into this rate proposal you will

see here in a second. At the end of five (5) years, we would get that target General Fund support of one million five hundred thousand dollars (\$1,500,000) each year. To get there, however, the General Fund support needs to be higher initially and it decreases over time. Also, when we had this conversation with the Council in 2020, we made a slight revision to the residential rates to address some uncertainty in relative household sizes between single-family residences and multi-family. We also rounded the residential rates off to the nearest twenty-five cents (\$0.25) per month. Earlier, we showed that most of the customers are residential, but because of the nonresidential customers like the hotels and the restaurants are bigger, most of the revenue comes from nonresidential sources.

Here is what we have in terms of a rate proposal. Your existing rate right now is sixty dollars (\$60) a month for a single-family resident, and fifty dollars (\$50) a month for each unit in a multi-family resident; that is proposed to be increased over a period of five (5) years reaching one hundred and one dollars (\$101) a month. Multi-family would also increase, but by a lesser percentage. What you can see, is that would require this varying amount of General Fund transfer each year reaching one million five hundred thousand dollars (\$1,500,000) in Fiscal Year 2027-2028, but a six-year total of just over twenty-two million dollars (\$22,000,000). Without the proposed rate increases, the rate would be the same, sixty dollars (\$60) a month, fifty dollars (\$50) a month for multi-family and the annual General Fund transfer would be over the six (6) years; forty-five million dollars (\$45,000,000). All of these scenarios assume five-year transition of rates, residential rates would remain a flat charge per month, and the bills would continue to be issued every month.

Looking at revenues and expenses now. The top line is the total expenses that we talked about earlier where it is about thirteen million dollars (\$13,000,000) in this current fiscal year increasing to twenty million dollars (\$20,000,000) in Fiscal Year 2027-2028. About half of that would come from your existing rates; you can see the revenue from the proposed rate increases. The Division has some revenue it receives from other sources besides rates, and we will talk about one (1) of those sources here in a few minutes, then you can see the General Fund transfer, as well.

Here is the same revenue and expense information, both a couple extra added lines. The bars like we talked about are the (inaudible) expenses in the green bar, the cash funded capital, the debt service in the top two (2) bars, but what is added to this graph is this thick black line is the revenues if the rate increases are adopted as proposed, and this dashed line is the revenues if there are no rate increases, so you can see in between the two (2) lines here is the revenue provided by the rate increases.

I want to talk about monthly bill comparisons between Kaua'i and other islands. We have here a single-family residential monthly bill; the City and County of Honolulu and Maui's rates are based on water consumption, so this is based on ten thousand (10,000) gallons per month of water consumption. You can see the City and County of Honolulu's are the highest. Maui has increased their rates a little bit each

year. Kaua'i's has been the same since 2014; this table goes back to 2017-2018. You can see Hawai'i Island was much lower. In 2019, they adopted a series of five (5) rate increases, and the first four (4) of them have been effective, and the last one increasing up to fifty-two dollars (\$52) per month that will become effective next year. Of note for Hawai'i Island, however, is that even with these increase rates, Hawai'i Island's General Fund still pays for capital project debt service. What Kaua'i is proposing and what Maui County, and City and County of Honolulu do is, they pay for all of their debt service through wastewater rates. We have also shown Aqua Puhī, who is a privately-own utility, and their rates are fifty-seven dollars (\$57) per month right now for a single-family residence. This is the same information presented in a graph form; you can see the tall gray is the City and County of Honolulu, you can see that this smaller tan-colored bar is Hawai'i Island as they increased their rates, Maui is this blue bar that is increasing a little bit each year, and Kaua'i is in the middle in the green.

Looking at it differently on a graph going back to 2014, you can see the City and County of Honolulu raised their rates significantly and ended about six (6) years ago and they have kept theirs the same for the last six (6) years. You can see Maui's rates increasing a little bit each year. Kaua'i's last increase was in 2014. Then, you can see Hawai'i Island's was held low and have been increasing as they implement their rate increases.

So far, we have only talked about single-family and multi-family residential customers, but we also are looking at rates for nonresidential customers, and we do that with the goal here highlighted, of equity, so that every type of customer pays a fair share of their costs of the wastewater system. There are twenty (20) nonresidential customer classes defined by the type of business, and whether or not the customer has a separate irrigation meter. Rates include a monthly service charge. Nonresidential customers are also charged based on their water use. We did something called a "cost-of-service" analysis, which looks at how strong the wastewater is from different types of nonresidential customers. For example, restaurants and hotels typically have higher strength, more concentrated wastewater, that costs more to treat, so they would be charged more as a result. There are some customers that have separate irrigation meters, so only the water that is used indoors is part of their sewer bill.

There are a lot of numbers in this table, and this is the proposed rate increases for nonresidential customers. I am not going to go through all of this right now, but you can see that the monthly service charge is a flat charge and it is increasing slightly, then all of the nonresidential customers pay a volume charge that is based on water use, and you can see how those increase from where they are now to what they would be in Fiscal Year 2027-2028. They would be increasing gradually over time, just as the residential rates are proposed.

We looked at private haulers, too. A private hauler is someone who delivers cesspool and septic tank waste to the Division. The Division can accept cesspool and septic tank waste either in Līhu'e or 'Ele'ele. Septic tank waste and cesspool waste are more concentrated than your residential domestic sewage. Right now, septic tanks and cesspools are charged different amounts. It is difficult to make sure the

proper accounting is being performed when the haulers come to the treatment plant. The haulers and the private residents they serve are being charged appropriately. The rate study recommends one (1) rate for both cesspool and septic tank waste. You can see what that is here. It would be nearly sixty dollars (\$60) per one thousand (1,000) gallons, increasing to over one hundred dollars (\$100) per one thousand (1,000) gallons. The rate was calculated, again, based on a cost-of-service analysis, recognizing that the private haulers do not use the wastewater pipes that go into the neighborhoods or the collection system. They only use the wastewater plant. Two (2) of the projects that are proposed are new septic receiving stations at Līhu'e and 'Ele'ele. Those would be paid for within these private hauler rates.

I am going to switch gears and talk about the wastewater capacity assessment and the sewer connection charge. These are one-time charges for each parcel as they connect to the sewer system. They are not the wastewater rates and are not monthly. They are one-time where a newly built house or commercial business connecting to the sewer system would pay both a charge for the treatment plant capacity and the collection system capacity. They are based on the value of facilities that provide sewer capacity to new development. Again, the principle here is equity. Growth pays for growth. There is a lot of investment that a lot of existing customers have made in the existing sewer system. New customers would pay their fair share of what it costs to provide them capacity. If a resident purchases an existing home that is already connected to the sewer system, there is no wastewater capacity assessment or a sewer connection charge. It is just for new homes.

I am going to talk about the wastewater treatment capacity assessment first, then I will go to the sewer connection charge. What we are proposing is that these charges actually decrease for the treatment plant capacity assessment. Again, this is based on the cost of infrastructure needed to provide capacity. The lower treatment charge is offset by a higher sewer connection charge for the collection system.

For the sewer connection charge for a single-family residence, it is only fifty dollars (\$50) right now. There has been a lot more investment in the system than that and we are proposing that would increase to about nine hundred fifty dollars (\$950). I will show you how they add up together. We are also proposing for nonresidential customers that they are calculated the same way the treatment plant capacity assessment is charged. When you add them together for a single-family residence, it is just a slight increase from three thousand nine hundred fifty dollars (\$3,950) to four thousand twenty-eight dollars (\$4,028). For a multi-family residence, they would actually decrease, recognizing that multi-family residences typically have fewer people per household and place less demand on the sewer system and require less investment per unit than a single-family residence would.

Sewer credit program. There is an existing program for qualified residents that provides twenty dollars (\$20) a month off your sewer bill based on the adjusted gross income of the residents in the house. That program will be continued, and the proposal is to change it from a twenty dollars (\$20) a month credit, increasing it

gradually to forty dollars (\$40) by 2027-2028. That recognizes that sewer rates are proposed to go up and that this provides an additional credit for qualifying residents. We are increasing the income limit to forty-eight thousand dollars (\$48,000) and continuing two (2) policies that the dwelling unit receiving the credit must be their principal residence and you need to put your application in every year by the end of the year in order to receive the credit for the following year.

In 2019 and 2020, there was also a discussion of consumption-based sewer rates. Right now, for residential customers the sewer rate is the same for each household. As we all know, the number of people in a household can vary. The request was to evaluate consumption-based sewer rates where the sewer bill would depend on water use. That would bring the sewer rate structure to something more similar to what your non-residential customers would pay. What we found was that your existing billing system that processes your sewer bills cannot accommodate consumption-based rates and that you would need to implement a new billing system in order to do that. I think this is an idea that should be looked at in the future and looked at after the billing system is implemented. Another factor to keep in mind is in order to have a consumption-based sewer rate, you would need to merge and make consistent that the Wastewater Division's database of customers and the Department of Water's database of customers, and there needs to be some synchronization of that in terms of the format of how the data is stored, the specific address, how they are stored, and the customer names. The databases would need to be modified or cleaned up a little bit.

This is the slide, and it goes back to why we should consider a rate increase now. We talked about capital projects that provide reliability of service. That reliability of service would support existing customers, but also new development, housing, new industrial development, and the jobs and tax base that could come with that. We talked about some capital projects that would save the Division money on the power bill, landfill disposal costs, and also be freeing up employees to do more proactive maintenance instead of continually attending to antiquated equipment. It would provide better management of limited potable water resources. It would prevent the costs of emergency repairs. We all know that emergency repairs can be expensive if you cannot plan for them. It provides environmental benefits. They address the deferred maintenance that exists now, avoids the threat of consent decrees, and controls future cost to give the Division the ability to plan for future needs.

That is my presentation right now. I want to thank you for your time. I want to open it up to any questions you may have. Thank you.

Council Chair Kaneshiro: Thank you for that. Are there any questions from the Members? I have one (1) question. On page 17, the General Fund subsidy...does that include the existing subsidy that the General Fund pays? Would

that be on top of the subsidy what the General Fund already pays into the Sewer Fund?

Mr. Griffith: No. That would be...the General Fund subsidy...the transfer that we are proposing is not on top of what is paid now. It is the total amount. It would not be in addition to what is paid now.

Council Chair Kaneshiro: Right now, in our Fiscal Year 2022-2023 budget, the General Fund subsidy is three million seven hundred thousand dollars (\$3,700,000).

Mr. Griffith: Okay.

Council Chair Kaneshiro: I think on your other page, I cannot remember which page it was, the number was a little smaller than that.

Mr. Griffith: Okay.

Council Chair Kaneshiro: Without the rate increase or trying to subsidize the increase, our General Fund subsidy is three million seven hundred thousand dollars (\$3,700,000). The prior year, it was four million nine hundred thousand dollars (\$4,900,000).

Mr. Griffith: Okay. Thank you for that comment. I appreciate it.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: You mentioned a one-time rate to connect to new homes, am I correct?

Mr. Griffith: Yes, that is one-time for new homes connecting. That is the wastewater treatment capacity assessment and the sewer connection charge, yes.

Councilmember DeCosta: The homes that are in the area of the infrastructure that was put in for sewer after the homes were built, did they have to pay a one-time hook-up charge as well?

Mr. Fujimoto: My understanding is yes.

Councilmember DeCosta: Is that hook-up charge the same as the ones we are going to charge the new homes, or are we going to charge the new homes more?

Mr. Fujimoto:
the connection charges.

Right now, this proposal is to charge more for

Councilmember DeCosta:
process is the same to hook-up?

Why would we charge them more when the

Mr. Fujimoto:
the infrastructure is much higher than the rate that we had before to pay for the infrastructure.

The cost analysis determined that the cost of

Councilmember DeCosta:
all of our customers, new and old.

I just want to make sure that we are fair with

Mr. Fujimoto:

Yes.

Councilmember DeCosta:
infrastructure aging...

I wanted to ask you about the forty-year

Council Chair Kaneshiro:

You can discontinue the screen sharing.

Mr. Griffith:

Okay.

Councilmember DeCosta:
years old and you want to do deferred maintenance prior to something breaking. Do we have a cost comparison with any other aging infrastructure with sewer across the state that might tell us that our sewer infrastructure could last another forty (40) or fifty (50) years? Are we possibly moving too quick on this? With the rising cost of everything, I am really worried about our residents and the incurred costs. A lot of people are living month-to-month.

You claim our infrastructure is forty (40)

Mr. Fujimoto:
is that the Wastewater Division conducts a facility plan for each of the wastewater treatment plants. This facility plan, back in the early 2000s, identified all of the so-called "potential problems" of these aging facilities and the lack of maintenance. Again, there is a lot of deferred maintenance. Over the years, as the Wastewater Division competes with other agencies, they could not get the moneys they needed to actually do the maintenance when needed. Now, all of these have really accumulated. My understanding is that the facility plans actually identified four hundred fifty million dollars (\$450,000,000) of required improvements. Back in early-2000, Ed Tschupp prioritized these to only one hundred fifty million dollars (\$150,000,000). Our plan is to try to address the one hundred fifty million dollars (\$150,000,000) that Ed Tschupp identified.

I think I can answer that. My understanding

Councilmember DeCosta: If I am hearing you correctly, you are saying that we have an astronomical amount of costs to repair and do deferred maintenance on our sewer infrastructure and that is a part of the County's responsibility. Having funding to do that is very important.

Mr. Fujimoto: Thank you. Yes. Exactly.

Councilmember DeCosta: In fact, I would like to see us give more towards this rate, so that the customer can pay even a little less. What is happening with the Lihu'e and Wailua sewer treatment plants next to the ocean with sea-level rise? Are we putting a lot of money into those sewer plants? What are we looking at with sea-level rise and possibly moving inland?

Mr. Fujimoto: Wailua is a real problem. The projects identified at Wailua is really to address the infrastructure. Again, I believe the Wailua capacity has actually dropped over the years. I think it is permitted for one million five hundred thousand (1,500,000) gallons and right now it is only one million (1,000,000) gallons. Again, the longer we defer these projects, the less capacity it will be at over time. We will encounter more emergency repairs. Wailua is a real challenge. It is one of our older facilities. It requires a lot of repairs and upgrades. The advantages of doing these repairs will also increase our efficiencies. Our operating efficiency over time will actually get better by implementing the repairs. It is not only repairing the projects, but we gain efficiency. We are in dialogue with the Department of Hawaiian Home Lands (DHHL) and they are looking at possibly relocating our facility *mauka*. I am not sure when that will happen. Right now, we are looking at what is really necessary, which is really process upgrades and not really expansion upgrades. Hopefully, we can address or resolve this before we need to actually expand the facility.

Councilmember DeCosta: I am going to give this example to my fellow Councilmembers here. When a family is growing in a house and wants to move from a 3-bedroom to a 4-bedroom and want to buy a new home, not build an extra room, they are not going to put in a lot of money into their home, because they know in two (2) years, they are going to be buying a larger home for their family. What I am worried about is we are going to put a lot of money into this infrastructure now and if something happens with DHHL or something happens where we want to move the sewer treatment plant inland, I am worried that we may not have the funding. Is salt breeze and having the sewer treatment plant a problem for us and is that a reason why we want to move inland, or does it have nothing to do with the salt breeze and just has to do with aging infrastructure?

Mr. Fujimoto: Right now, the projects identified really just addresses aging infrastructure. Being next to the ocean and beach definitely...the salt breeze has been one of the issues that accelerated the depreciation and condition of the plant. Yes, looking at a new location for Wailua...again, my understanding is that in some of these long-range master plans, they were looking at actually developing two (2) regional plants. One (1) would be further up by the bypass. The other one would be up in the Kapahi area.

Councilmember DeCosta: Okay, thank you.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: This would be having us borrow about one hundred million dollars (\$100,000,000). You said that would take about five (5) years that we would accumulate that debt as we moved through the projects in need of repair. Do I have that correct?

Mr. Griffith: Yes.

Councilmember Cowden: What is the length of the debt? How long is the debt for the one hundred million dollars (\$100,000,000)? Is it twenty (20) years? What is the interest rate likely to be?

Mr. Fujimoto: Donn, can you answer that?

DONN KAKUDA, Civil Engineer VI (*via remote technology*): The length of the debt is for twenty (20) years. Currently, the interest rate is one and a quarter percent (1.25%). That is the interest plus the fees. When we reached out to the State Revolving Fund (SRF) folks to ask them if they have any guidance on future rates, they told us that it is a year-to-year thing. Right now, it is one point two percent (1.2%) and it could rise in the future.

Councilmember Cowden: Okay. I have a few other questions that are unrelated to that one. When you are looking at improving it, does this go towards any added capacity? That is a big goal that we have in terms of moving away from cesspools and septic. As we improve these, are we going to be able to add capacity?

Mr. Fujimoto: My understanding is that we are not going to lose capacity. Again, because these facilities are so old, by deferring this, we actually lose capacity over time. As I mentioned, I believe Wailua was at one million five hundred thousand (1,500,000) gallons and is only at one million (1,000,000) gallons. I may be mistaken. It may be the Līhu'e plant that actually lost capacity over time. As you can see, if we do not do anything, we actually lose capacity over time. The idea is that we want to keep the capacity that we have. In the presentation, you will notice that we are only at half of the permitted capacity in most of our facilities. We are trying to retain that capacity.

Councilmember Cowden: When I am looking at this one and a quarter percent (1.25%) interest rate, which is over the curve of the last fifty (50) years where we have had pretty low interest rates, if we were getting more and extending for example on Moi Road in Hanapēpē Heights, half of that neighborhood and half does not. It is actually the lower portion. One would think you would just run a pipe down and add those houses in. Those are things that we have needed to do for a very long time. I wonder if it would that much to the cost to be correcting or creating more length. Waimea over to Kekaha is another example. That is a longer run.

Mr. Fujimoto: Those are very good points that we are looking at. Right now, our priority is just to maintain what we have. 'Ele'ele actually is not an area that we have capacity. Based on Lima Ola and DHHL's proposals, that

'Ele'ele plant might already be saturated. We would have to do an expansion at 'Ele'ele besides putting in the infrastructure to service that area.

Councilmember Cowden: Okay. Here is a different question. When we are looking at our billing system, when we do not have the capacity to determine by water usage...you said it is not in there. How antiquated is our billing system? Is it on a computer or handwritten? What is our billing system right now?

Mr. Fujimoto: Right now, we are in dialogue with the Department of Water (DOW). In fact, I just setup a meeting tomorrow with DOW's Manager Joe Tait. We are going to be talking about possibly piggybacking with DOW. However, that is also with some additional costs. We would have to consider that as a part of this program. My understanding is that we did have a chance to piggyback with DOW some years back, but we did not have the funds to actually participate in their new upgrade.

Councilmember Cowden: The reason why I am asking is when we are borrowing one hundred million dollars (\$100,000,000) I think that if we borrowed one hundred two million dollars (\$102,000,000), just giving a random example of numbers, and we were able to put it all on a modern IT system on a modern program...I think that is one (1) thing, I would say that I used to be in court pretty often when people were insolvent. That usually was Monday mornings. It was usually *kūpuna* who maybe lost a spouse, and they cannot pay their sewer bill. It is just one (1) person where the house next door might have thirteen (13) people in it. We could have better equity that way. If we have thirteen (13) people on a system, they are going to be paying for that. If we have that one (1) person, they will not pay so much. It seems like while we are doing this whole upgrade, why not upgrade the billing system right along with it. Is that overwhelming to contemplate?

Mr. Fujimoto: That would take time. Right now, we actually need this rate increase to address more immediate problems. That is something that we are pursuing right now. In fact, just the fact that...you brought up a really good point. We did look at consumption-based rates. The biggest disadvantage right now is our system. We cannot accommodate or even implement if we wanted to right now.

Councilmember Cowden: That is why I brought up the computers. In outreach, have you spoken to the private haulers? Have they been included to analyze what their costs would be? Did we get a reaction from them?

Mr. Fujimoto: Actually, the study is a very good study, and it is a cost-of-service study. It is not a matter of how you feel about it. It is how much it costs to treat their waste. We are being as objective as possible. Again, I am not sure what getting feedback from them would do. We need to recover the costs for us to treat their waste.

Councilmember Cowden: I respect what you are saying. I am not suggesting that it is going to change your plan. Having been a small businessperson, a lot of these folks are small businesspeople. When they are able to anticipate...if they were to know within two (2) years their rates are going to double...because I am also thinking about how we help people to know that when people have an affordable housing rental rate, that is something that we discuss here a lot and how we keep people in a certain tax bracket, we have a certain dollar amount on that. When we increase the sewer charge or the septic pumping, everything has pressure. I appreciate...let me start with this, Donald. Thank you so much to our Wastewater team. You do a great job. As I said in our private meeting, a lot of those people working there are half the age of the facility that they are working in. They really do an amazing job. I am just trying to make sure that we do not shock the community with something they are not prepared for. It sounds like maybe you have not talked to them yet. I will give them some calls. It is important we hear how they are going to be able to adapt. I have one last note here. Relative to the DHHL land that you suggested, is that just *mauka* of the Wailua plant? Is that on the mountainside of the plant there in Wailua? You mentioned DHHL.

Mr. Fujimoto: Yes. My understanding is that all of the land *mauka* of Kūhiō Highway is DHHL land, right across the existing facility.

Councilmember Cowden: Okay. I have two (2) thoughts on that, just so you have my feedback. My experience with the Native Hawaiian or *kanaka* community, whatever word we might choose, there is a lot of frustration on their lands being placed for public use rather than Hawaiian homes. There is a little bit of a challenge with that. The other challenge I see with that is that is one hundred (100) feet or higher than where it is now. We would have to put in a number of new pump stations, right? We have gravity. That is why sewage treatment plants are low. Gravity works. Is pumping up hard or not too hard?

Mr. Fujimoto: We actually pump to our existing facility. The biggest challenge is actually rerouting our existing flows from where we are now to the new facility. As you mentioned, you are absolutely right. Hawaiian Homes will not put us where we want to be. They will probably find a place that will be out of sight and out of mind. That would probably require additional infrastructure. However, they are doing this because they want us to service them as well. My understanding is that they have a huge consumer base, and this move just by expanding the volume of customers, will probably be able to spread the cost, so to speak, and would be able to help us pay for the higher cost of relocating the facility.

Councilmember Cowden: Okay, that is why when I was asking about extending our sewer lines in the Moi Road area or somewhere else, if we have more customers, there is a concentration of customers, there are more customers and more hook-up costs, that actually helps that operation.

Mr. Fujimoto: Thank you very much. That is definitely a luxury we have not had yet. We want to be more proactive and try to be more proactive in spreading this cost in expanding our services. Right now, our biggest challenge is really just to maintain what we have. As you can see, there is a cost to that. Thank you also for offering to spread the information to these private haulers. Our direct customers also will be in shock when they see these new rates. This is not popular, but is something that we have to do. It is a cost of providing service.

Councilmember Cowden: Thank you. Those are my questions.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: On that one and a quarter percent (1.25%) rate, it seems very low on the one hundred million dollars (\$100,000,000). I believe it was...Donn, you said that rate can vary year-to-year.

Mr. Kakuda: Yes, it can. It can change.

Councilmember DeCosta: It scares me. With a home, you have a fixed mortgage rate. It is fixed for thirty (30) years. A variable rate can increase anywhere from five dollars (\$5) to fifty dollars (\$50) to one hundred dollars (\$100). It worries me that our sewer consumers will have a variable rate year-to-year.

Mr. Kakuda: Let me clarify, Councilmember DeCosta. Once we do the loan documents, then the rate gets locked in. As the project comes up five (5) years from now and we actually do the loan, then the rate could vary at that time. Whatever projects we do within the next year, they are going to be locked in a one and a quarter percent (1.25%) for the twenty (20) years of the loan.

Councilmember DeCosta: Okay. Does that ensure the project for the second or third year?

Mr. Kakuda: It is possible. Every year, they will tell us what the rate is for that year. The projects down the line might be different.

Councilmember DeCosta: This discussion is for Donald. Does sewer infrastructure share the same trench as potable water and electric, or do we need to dig a separate trench?

Mr. Fujimoto: No. By regulation, we actually have minimal separation with water.

Councilmember DeCosta: What is the minimum separation? Does it have to be above or below?

Mr. Fujimoto: My understanding is at least one and a half (1.5) feet below.

Councilmember DeCosta: Okay, but basically it can go in the same trench.

Mr. Fujimoto: It is not recommended. If you ever had to repair the pipe, you do not want to have to dig over the waterline or dig under the waterline.

Councilmember DeCosta: About how far away would they have to be?

Mr. Fujimoto: Normally we go on the opposite side of the road. If the water is on the...

Councilmember DeCosta: I am trying to look at your great idea with DHHL relocating...someone made a comment, I think it was you Donald, that DHHL would put the sewer treatment plant somewhere far away. Maybe they will not. Once the infrastructure goes in with the road, maybe we will have the ability to put our lines in with the water and electrical lines to serve our Native Hawaiian community with infrastructure that can address housing. The land is there. I am trying to look at how we can kill a couple of birds with one (1) stone in thinking like that.

Mr. Fujimoto: Okay, right.

Councilmember DeCosta: I think it is worth the conversation, Donald.

Mr. Fujimoto: Our Ordinance, whoever drafted our Ordinance is a genius. The Ordinance clearly says that developers need to pay for all the infrastructure and expansion costs. DHHL will definitely be paying for their share or more. We would benefit by having them as customers and helping to defray the monthly costs. The idea to actually have the County expand in areas like Hanapēpē, the County would have to pay for all the improvement and expansion costs. It is not as simple as a new development. Grove Farm is proposing a huge development in Līhu'e. Right now, they are already looking at proposing the infrastructure required for their project. They are going to be paying for it, to also include the expansion to accommodate their sewer needs.

Councilmember DeCosta: In Kekaha, it troubles me that we did not have that in the scope of work with them being at sea-level with all of the septic systems and old cesspools that are out there. Why would we not be able to run a lateral line from Kekaha to the Waimea Sewer Treatment Plant, upgrade the treatment plant, and have all those homes on sewer, considering if some of the water table and leach fields from our septic and cesspools going into the ocean. Tell me a little bit about that.

Mr. Fujimoto: Kekaha, as I just mentioned, the County would have to pay for the improvements. The County would have to pay for the expansion. Right now, Waimea is also in a flood zone. One of the ideas would be to consider relocating the Waimea plant to a higher elevation. One of the other issues in Waimea is effluent disposal. Thank goodness that we have this reuse program going on. Hopefully, we can convert our liability to an asset by selling reused water.

Councilmember DeCosta: I understand how complicated and important this sewer problem is now.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: I have a question on slide 32, the nonresidential service. I just want to make clear; you mentioned hotel and resort is actually right now two hundred dollars (\$200) per dwelling unit right now. What you are proposing is that the sewer connection be one-fee based on the size of the water meter, is that correct?

Mr. Griffith: Yes, that is correct for the connection charge.

Councilmember Chock: If I was to take that into consideration for the three hundred-unit hotel, which would amount to sixty thousand dollars (\$60,000), if they were to use a four (4) inch water meter now, their costs would now go down to fifteen thousand dollars (\$15,000), is that correct?

Mr. Griffith: You are saying three hundred (300) times two hundred dollars (\$200), compared with a four-inch water meter? That is correct.

Councilmember Chock: I do not understand the reasoning behind that. We are talking about Coco Palms, for instance that will be opening. They would be charged four (4) times less than what we would be charging previously.

Mr. Griffith: Again, this is for the collection system. When we did these calculations of the appropriate charge for a connection charge, it is based on the value of infrastructure that would serve development. For the collection system and treatment plant, we were not looking so much at what the current charges are, we were looking at what they should be. If a charge was too low, like the single-family residence of fifty dollars (\$50), then we wanted these to be what was appropriate, not so much looking at how they changed. What we have come up with is what is the appropriate amount based on the value of infrastructure needed to provide capacity to a new development.

Councilmember Chock: The value of infrastructure, meaning the cost that it takes to put the line in. Is that what you mean?

Mr. Griffith: Yes, that is a good way of describing it. It is the value of existing and planned facilities that are necessary to serve the

development. For the sewer collection system, it would be the existing pipes. For the treatment plant, it would be the existing asset values of the treatment plants.

Councilmember Chock: A single-family residence would go from fifty dollars (\$50) to almost one thousand dollars (\$1,000). I am having a hard time reconciling impact versus value of the infrastructure. While I understand it is the cost that you are incurring to build that system, I think what we are looking at here is the need to balance the impact to the environment, as well as the cost to the whole community over time. How do you reconcile that?

Mr. Griffith: What we are doing is we are looking at a pretty prescriptive description of what is in Hawai'i State Law for impact fees and recognizing that these charges are analogous to impact fees that you might charge for other types of services. Those impact fee regulations do not consider things like environmental benefit. They consider the cost of infrastructure needed to provide capacity. It is cost-based.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: I am with the Council Vice Chair on this one. I cannot fathom fifty dollars (\$50) to nine hundred dollars plus (\$900+). Apparently, the decision you are telling me is that it is based on your opinion on where the price should be. That does not sit well with me at all.

Mr. Fujimoto: Can I just add something here? Again, this charge is a one-time charge for the lot. Once you pay it, you do not pay it again. However, if there is an Additional Dwelling Unit (ADU) or Additional Rental Unit (ARU), you would pay this fee for the connection.

Councilmember DeCosta: Donald, with all due respect, when I built my home, I had five dollars (\$5) left in my account, because all my money went into building my home, putting in my washer and dryer, light fixtures, countertops, et cetera. The person that is going to hook-up with this new charge, their bank account might be zero dollars (\$0). Nine hundred dollars (\$900) is a lot of money compared to fifty dollars (\$50).

Mr. Fujimoto: Yes, understandable.

Council Chair Kaneshiro: Councilmember Carvalho.

(Councilmember DeCosta was noted as not present.)

Councilmember Carvalho: Donald, which is the oldest plant that we have right now on our list?

Mr. Fujimoto: They are all about the same age. I think the plant that probably needs the most attention is actually a tie between Wailua and Lihue. 'Ele'ele is actually an older facility. Waimea is relatively new, and it was renovated, I think, about five (5) or ten (10) years ago.

Councilmember Carvalho: There is a reason why I asked that. Of the three (3), the closest to the ocean is Wailua, right?

Mr. Fujimoto: Yes.

Councilmember Carvalho: To me, that is the plant that we should really be focusing on if we can. We have an opportunity to not only rehabilitate, but I do not see anything in the plan to show a relocation to move it from that point, because it is in that area of our island. It is the closest to the ocean and it needs to be relocated. We talked about DHHL, but there is a partnership that I feel can happen. I just wanted to make clear that if there is an opportunity to not only rehabilitate or to put funding or talk about relocating it, if it is across to DHHL lands and it is close enough to where we can share the costs, let us do that. I just want to make sure that we are clear on that. The importance of that. I am looking at all the documents. You have phase 1, phase 2, and phase 3 in this slide 11, Upcoming Capital Improvement Program Projects. It is specific to Wailua. That is what I was looking at. If there is a way, we can at least put that on the table and discuss that it is important to have it written out within the plan.

(Councilmember DeCosta was noted as present.)

Mr. Fujimoto: Yes, thank you. With that said, again, the priority is not to expand. It is really just to repair at this point. We do need to look at the future of Wailua. Thank you.

Mr. Dahilig: If I could just add, Councilmember Carvalho, we have recently been made aware that DHHL has received hundreds of millions of dollars of funding related to moneys that have been put forth via the recent State budget. If there is an opportunity for millions of dollars to come our way as part of a partnership with DHHL as you are describing, we could certainly retool priorities if such an opportunity were to occur. At this juncture, we have not yet received notification that DHHL seeks to use some of those resources to relocate the plant.

Councilmember Carvalho: Okay. It is an option that we can at least talk about, if that something is needed. We could bring the right people to the table and move on that. That will help open up opportunities for housing and relocation. I just wanted to make sure we are clear on that.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: I might not be understanding something on the rates. How many hotels actually are in our sewer lines? Are there many hotels connected into the sewer system? I know in Po'ipū they mostly have their own systems and injection wells. Do we know if we have much of the visitor industry on our sewer lines?

Mr. Kakuda: I do not know the exact amount of hotels on our system, but I do know that the Marriott is our biggest customer. They are on our system, and they pay us the most every year.

Councilmember Cowden: Do basically pay a proportionately similar rate? I know they would be considered nonresidential.

Mr. Kakuda: That is correct. They pay the hotel rate.

Mr. Griffith: Donn, this is Art. We had your customer data when we did this. In your customer class of hotels, motels, and resorts without restaurants, you have eighteen (18), and hotels, motels, and resorts with restaurants, you have nine (9). That is the number of customers that you have that are classified as hotels.

Councilmember Cowden: When I am thinking about impacts, typically our visitor industry pays a higher property tax and a lot of different types of tax. Are they being largely equally charged for the sewer? Would their rate be the same as any other nonresidential customer? If they were next to a car lot, would they pay the same rate?

Mr. Griffith: That is a very good question. Sewer rates are based on wastewater strength as well. Hotels and, especially hotels with restaurants, have stronger or more concentrated wastewater. As a result, they pay higher sewer rates, not because they are hotels, but because their waste is more concentrated.

Councilmember Cowden: When I look at slide 18, it tells me that sixty-five percent (65%) of the contribution into our Fund is coming from business, whether it is a hotel or whatever else, and twenty-six percent (26%) is coming from single-family. Would the nine percent (9%) be apartment buildings?

Mr. Fujimoto: Yes, you are right.

Councilmember Cowden: Would that be a visitor condominium?

Mr. Fujimoto: Nine percent (9%) is from multi-family. Twenty-six percent (26%) is from single-family.

Councilmember Cowden: Are hotels nonresidential?

Mr. Fujimoto: Yes, correct.

Councilmember Cowden: Okay, thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: What is the price on that nonresidential versus the single-family...I want to do a unit comparison. If the hotel has three hundred (300) rooms and a single-family residence pretty much has one (1) room with one (1) or two (2) bathrooms...I want to do a cost comparison. Maybe you can get me those numbers if you do not have it, Donald.

Mr. Fujimoto: Okay. Right now, our rates are based on consumption rates for nonresidential. It is based on gallons of consumption. How many gallons are being used and not the rooms?

Councilmember DeCosta: Their gallon rate is the same as the single-family gallon rate?

Mr. Fujimoto: No, single-family is a flat rate.

Councilmember DeCosta: If they are on a flat rate, they pay a certain amount and that does not change. What about the nonresidential? What kind of rate is that? Does it fluctuate?

Mr. Fujimoto: We did an analysis on Transient Vacation Rentals (TVRs) and assuming we convert TVRs to the hotel rate, as an example. It came out roughly about ten dollars (\$10) a month more that they would be paying.

Councilmember DeCosta: How much more does the hotels pay versus the single-family residence?

Mr. Fujimoto: I am not sure, but again, we can try to get you some numbers. Right now, the hotels are paying the bulk of the revenues. They contribute the most.

Councilmember DeCosta: You just told me that TVRs paid the same as hotels, they would go up ten dollars (\$10) more. Basically, are TVRs paying the same as single-family dwellings?

Mr. Fujimoto: Right now, we are assuming that based on our analysis for rates, ten thousand (10,000) gallons per month per residential. If we look

at it based on ten thousand (10,000) gallons per day, they would be about ten dollars (\$10) more per month.

Councilmember DeCosta: Okay. I am trying to understand this really quickly. Is it safe to say that residential and TVRs have the same usage of ten thousand (10,000) gallons a day? If we were to move TVRs to hotel, they would have an increase of ten dollars (\$10) per month? That tells me that hotels pay only ten dollars (\$10) a month more than the residential or TVRs.

Mr. Fujimoto: No, I am not saying that. I am saying that hotels pay based on actual consumption and usage.

Councilmember DeCosta: I would like a comparison.

Mr. Fujimoto: I can see now that my analysis is probably flawed. I am using the fact that they are one (1) house as opposed to occupancy and consumption. The fairer way would be a consumption-based analysis. I really cannot say how much more a consumption-based analysis for TVR would be compared to a household. Again, it would really be dependent on the number of people and occupancy.

Council Chair Kaneshiro: We can send those questions up as a follow-up. This is only first reading. They can have the answers ready for Committee.
Council Vice Chair Chock.

Councilmember Chock: I am glad that the sewer credit program is continuing. I just want to understand, there is an increase in the income limit to forty-eight thousand dollars (\$48,000), an increase of eight thousand dollars (\$8,000) more than previous. Is that on par with the property tax income threshold that we use? Is it different?

Mr. Kakuda: Councilmember Chock, it is different. I looked at the property tax one and they have all kinds of values. We wanted to keep it as simple as possible for our users. When they come in, we just tell them the number and if they are under it, they can apply. That was a discussion we had internally as to what is the number. That is the number we came up with. If the Council wants something different, we are open to that suggestion.

Councilmember Chock: Okay, thank you. I believe we have a connection waiver. Is that still active or are we discontinuing that?

Mr. Fujimoto: It is in the Ordinance. If the Housing Director authorizes or acknowledges that the project falls under the low-income or affordable definition, we would exempt it.

Councilmember Chock: Okay, thank you.

Council Chair Kaneshiro: Councilmember Kualii.

Councilmember Kualii: Donald, when you were talking about the three (3) locations and you mentioned the Wailua location, which is on Hawaiian Homes Trust Lands. You also said further up in the bypass and in the Kapahi area. For all of these locations, what kind of acreage do you need or require? Is there a minimum and maximum amount that it would take to locate a new treatment plant?

Mr. Fujimoto: It depends on the service area. My guess is that we would want at least fifteen (15) to twenty (20) acres.

Councilmember Kualii: At least?

Mr. Fujimoto: At least.

Councilmember Kualii: We know that the Wailua lands are trust lands managed by the State DHHL.

Mr. Fujimoto: Yes. I think the area that they were talking about were private lands. One of the sites that I thought I heard was below Kapa'a Middle School. The other site was in the bypass area towards the neck of the Kapa'a Bypass, which is not Hawaiian Home Lands. DHHL lands is the only land I know that we cannot dictate the use on.

Councilmember Kualii: The bypass area is also on private lands?

Mr. Fujimoto: Yes.

Councilmember Kualii: Is the plan to lease these private lands or purchase these private lands?

Mr. Fujimoto: Again, with the limited knowledge that I have, it was probably to do some sort of land acquisition.

Councilmember Kualii: My last question about the Wailua lands with Hawaiian Homes Trust Lands, in pursuing that option, you said you have been in dialogue with...I assume you are talking to the DHHL.

Mr. Fujimoto: Yes.

Councilmember Kualii: Are you recognizing that much like the landfill in Kekaha, you have the community and the host community benefit. Like the solar farm in Anahola, there is a homestead benefit agreement, which is the same as the host community benefit that the County provides in Kekaha. Kaua'i Island Utility Cooperative (KIUC) has it. They are probably working on one for the hydro plant on the Westside as well. Have you thought if the County was to pursue a sewage treatment plant on homestead trust lands, and you talk about including a homestead benefit agreement? It is more than just talking to a State department. These are not just government lands; these are trust lands. You should make sure that you include the Sovereign Council of Hawaiian Homestead Associations and the Anahola Association of Hawaiian Homestead Lands. Those are two (2) statewide organizations of the trust beneficiaries. DHHL as a State department does not speak for them. You need to speak to them as well and just keep in mind a homestead benefit agreement.

Mr. Fujimoto: Thank you very much. I may have misspoken. I am not in dialogue, but there was a meeting that was setup that I was a party to. They did express their interests. I definitely know that the DHHL is one of the few lands that we cannot do any kind of condemnation or anything like that. DHHL is exclusive and even their agreement or what they offer us, we have to be very careful on the terms. They can do anything at any time.

Councilmember Kualii: I would say too, you are right. There are five hundred (500) acres there. Beneficiaries have been in discussions with the Department over the years to plan for a new community one day there, which could have hundreds of homes. Ideally, it would be great for that to happen, for more beneficiaries to be able to live closer to Lihu'e, jobs, and all of that. It is a positive possibility, just make sure you talk to all the right people too.

Council Chair Kaneshiro: Are there any other questions from the Members? It is only first reading, so we can save up on our questions or send them over before the next meeting.

Councilmember Kualii: I only spoke once.

Council Chair Kaneshiro: While the rules are still suspended, is there anyone in the audience wishing to testify? Lonnie.

Mr. Sykos: The monster of deferred maintenance bites us again, it appears. My question is, I was reading through all of this. I do not know enough to have been able to figure out what the charges would be for me, or the proposed charges would be. My question for Troy and the Department is...I live in Wailua Houselots and live close to a sewage treatment plant, but I have a cesspool. I would like my house to be on sewage treatment. That way I can put more bedrooms

and all of that. The sewage treatment plant is antiquated and has to be rebuilt or moved as the ex-Mayor pointed out ideally. All of this costs big money. My simple question is, in this proposal, even though I am not hooked up to the sewage right now and even though I am on a fixed-income and I do not want to pay any more money every month than I already do, I realize I should be paying into the Sewer Fund, because the capital improvements are huge that are required...how much is being proposed for someone like me with a two-bedroom house in Wailua Houselots? Until I get hooked up, it seems like they want fifty dollars (\$50) a month or something that would go into the fee and eventually I would get hooked up to the sewer system at which point these other large fees would kick in? I cannot understand what was proposed there. That is my question.

Council Chair Kaneshiro: We will get you an answer later. The flat rate is already set at sixty dollars (\$60). I do not know what the hook-up fee would be in your particular situation, being that they would have to expand the line. We would have to get back to you on that. If you look in here, it has the flat rates of what a residential consumer would pay. That would be sixty dollars (\$60) and they are proposing some increases.

Councilmember Cowden: Just for clarification, if you are not hooked up to the sewer line, you do not pay those sixty dollars (\$60) a month. You do not pay it if you are not on the sewer system.

Council Chair Kaneshiro: We will get back to you on what it would cost. I do not know if they even can. They would have to consider putting in a line there. We can tell you what the flat costs would be if you were connected.

Mr. Sykos: If I can clarify your clarification, so if I am not hooked up to the sewage system currently, none of this impacts me? It is not until I hook-up.

Mr. Tanigawa: That is correct.

Mr. Sykos: My two cents as a taxpayer again is, we need to expand and fix our sewage system. I would gladly pay fifty dollars (\$50) a month into a kitty, because we are getting killed by deferred maintenance. As much as I do not want to do it, I would pay money every month even though I am not hooked up to the sewer system as part of building up the money to fix it. Thank you.

Council Chair Kaneshiro: Thank you. We will start charging you sixty dollars (\$60) a month starting today. Just kidding. Is there anyone else in the audience or on Zoom wishing to testify?

Council Chair Kaneshiro: Are there any final questions from the Members? Is there any final discussion from the Members? Council Vice Chair Chock.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Chock: I have a lot more questions, that is why I am looking forward to the Committee Meeting. I hope that the consultants will be here for that session. To answer the question that Mr. Sykos has, first, I think we need to determine where the expansion is going to occur, and we have not done that, so we may not even be eligible for it in the future. What it is proposing here, is that the private haulers, when you do need to get rid of the waste from your cesspool, it will go up for you, so it does have an impact to you. With that being said, I think that there are a lot of variables here that we need to consider in determining where we land here, but I do appreciate the hard work that you folks have gone through. We put this on hold for three (3) years, we did a study, we spent money on it, and because cause of the pandemic, we put this on hold, and I am still not clear what the differences were from the 2020 study versus now. I understand there was some feedback that was integrated in here, but from a rate standpoint, I am not clear. I would love to be able to see that. In addition to what it is we may do, in order to avoid having to go back to the table and spend upwards of over one hundred thousand dollars (\$100,000) in consulting fees to redo the study, so I completely understand that this is unforeseen because of the pandemic, but perhaps we could have passed something and deferred it for a few years in order to get there; just something we have to take into consideration every time we defer something like this, because we “kicked the can down the road,” and we pay for it in the long run. Thank you.

Council Chair Kaneshiro: Councilmember DeCosta.

Councilmember DeCosta: Again, great work on the slide show, great input, and thank you for all your hard work, Donald, and the other gentleman. There were a lot of assumptions and educated guesses that were made that does not sit well with me, and I believe the word “assume” was used, so I do not like the word “assume.” I think we need more concrete answers. I do not like that we need to push this cost on our sewer recipients to that level. I think it is part of the County’s responsibility to ensure that our community housing has sewer, and what worries me, when I ask the question of, what does a residential single-family dwelling pay compared to a TVR, exactly what I remember was said to me was, if TVRs were to pay the same as a hotel, that bill will go up by ten dollars (\$10), so that means that the hotels are only paying ten dollars (\$10) more than the TVRs, and the TVRs are paying the same as the single-family depending on how many people they have in their home. Now, a single-family can have a mom, dad, and three (3) children—that is five (5), and the TVR can have anywhere from a couple to a couple with a child, or two (2) children, so

the influx of everyday use might not be the same, because they go to and from the mainland, or another country, so that TVR might sit vacant and not have usage for a couple of days. What worries me is whether the hotels and resorts paying their fair share, because they are using sixty-five percent (65%) of our sewer treatment centers, so let us look at that, let us make them more accountable, and let us not push this burden on our taxpayers who are struggling to pay the everyday electric, cell phone, food bill, and their mortgage. Thank you.

Council Chair Kaneshiro: Is there anyone else? For me, I will just say, it is long awaited. We had this study come through a few years ago, I can tell you, if we defer it, then I am almost positive when we get this back in two (2) years or three (3) years, the rates will be even higher than what they are now; it is just the “nature of the game.” We are not putting money towards fixing things, the cost of repairing them in the future will be higher, so I think it is a good start. I know with the previous study and with this study, you have a lot of information based on how you got the rates, how you justify the cost, and everything, so maybe you might have to provide that or the information you have to get to that number a little clearer to Councilmembers, but I do know that it cost money, and I am glad you folks are trying to justify it by what it cost. I think in the back of our heads, we want to push more cost to certain industries, but I think you folks are doing it the fairest way. You are saying, the cost to connect this sewer line is this, so that is what we are going to charge them; a bigger line cost more, so that is what we are going to charge them, it is not who you are or what you do; it is what does it cost us to get the lines there, what does it cost us to process the waste? I think it is a fair way of looking at it, maybe we just need a little more detail on how we got to those end numbers, but it is a start, it is somewhere, and it is always a hard pill to swallow when we have to look at rate increases. If you just look at our subsidy every year that the General Fund puts into Wastewater, you know that the money that we are putting in is not covering the cost of our wastewater. I think we put about four million dollars (\$4,000,000) the prior year, this past budget is three million five hundred thousand dollars (\$3,500,000), that is General Fund money that is going to Wastewater to help subsidize the cost of running our wastewater system—that is the reality of our financials on that. Is there any further discussion from the Members? If not, roll call vote.

The motion for passage of Proposed Draft Bill (No. 2874) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for August 3, 2022, and that it be referred to the Public Works & Veterans Services Committee was then put, and carried by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, Evslin	
	Kuali'i, Kaneshiro	TOTAL – 6,
AGAINST PASSAGE:	DeCosta	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes, one (1) no.

Proposed Draft Bill (No. 2875) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTIONS 5A-6.4, 5A-8.1(g), 5A-9.1, AND 5A-11.23(a), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX

Councilmember Kuali'i moved for passage of Proposed Draft Bill (No. 2875) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for August 3, 2022, and that it be referred to the Finance & Economic Development Committee, seconded by Councilmember Cowden.

Council Chair Kaneshiro: We received written testimony on this item. We did hear from some testifiers this morning. I will suspend the rules, and Councilmember Evslin or Councilmember DeCosta, if you want to go over the presentation on it.

There being no objections, the rules were suspended.

Councilmember DeCosta: Councilmember Evslin, I will start like we had agreed, and you can chime in at the comparison, and if I miss anything, you will quantify it later in the presentation as you explain. Thank you.

Good afternoon, everyone. We have been working on this revamp of our agricultural dedication for a year now with the Department of Finance and Real Property Tax, Reiko, Mike, Terry, and their great team. I want to thank Jenelle for this presentation that you are about to see; thank you so much for your diligent work and making Councilmember Evslin and I look so prepared. I want to thank all the people during the public outreach who met with us. We met with close to fifteen (15) local farmers and ranchers, and we gathered a bunch of constructive information that we digested and formulated our new proposal Bill that you are about to see. The reason why we took the time is, because we wanted to meet with all the entities, and this Proposed Draft Bill (No. 2875) is a way to incentivize food production whether it is fruit, vegetables, livestock, et cetera, so we can be a more sustainable island, and we believe that the existing agricultural tax bill does not do a good enough job, as far as to incentivizing food production. Instead, we feel like the existing program is one of the largest tax relief measures offered by the County, and this is why I want to make sure that these beneficiaries of the tax rate are bona fide farmers and ranchers, and are not using this as a way to landbank their farm lands, and get a tax break when they are not bona fide farmers producing food production, livestock, or fruits and vegetables for our community to be sustainable. In the existing program, we have a subsidy of eight million dollars (\$8,000,000) annually to support agriculture. We have a ten-year or twenty-year term to put your dedicated land in farming or ranching. Dedicated properties are assessed by soil rates, which is loosely based on the estimates of farm output per acre, and not tied to the market value of land, and we all know the market value of land has risen. The County Code provisions are lengthy and complex, and twenty-two (22) pages of Administrative Rules passed in 1993; they need to be updated, so much more land has been transferred into farming and ranching, and has changed ownership since 1993. Since 2016 and 2018, under our previous Mayor's leadership, we have had working groups that worked

hard to put together constructive information. The issues discussed helped form the foundation of the current proposal that is going to be before you. The goal of the current proposal is to assist actual agricultural production, not to generate more tax revenue. In fact, we want it to be as close to being revenue neutral as possible. Food production during COVID-19 has resonated with all of us. We need to have bona fide ranchers and farmers on the property growing food, fruits, vegetables, eggs, and livestock, which could create a more sustainable Kaua'i. We do not need land bank areas with a few sheep, a few cows, or a row of palm trees, and call it a ranch or farm over five hundred (500) acres—that is not incentivizing food growth, that is land banking and taking advantage of our tax relief. The existing program partially lists the problems. Next slide.

Dedication requires major commitment of land and farmers. Aside from the rare exceptions, the State and agricultural use must continue for the entire ten (10) to twenty (20) years even if the land is sold, or if the farmer desires to cease operations. Aside from rare exceptions, cancellations result in a lien of rollbacks. Rollbacks means that even if you farm the land for nineteen (19) years on a twenty-year dedication, if you pull out within the last year, you will get nineteen (19) years of rollback taxes, even if you had that land in full-fledge farming or ranching. The penalties and interests are calculated to the dedication's original approval date, so you could go as far back as your twenty-year dedication. Currently, that could cost you over one million dollars (\$1,000,000) in rollback taxes, and we are about to remove that. This complicated program deters prospective farm interest participants to be compliant, hinders enforcement, and incentivizes abuse of the law to avoid rollback taxes; it serves as a tax haven for owners of high value properties. This complicated program has the nature of soil rates embedded in, which is a validation methodology that is complex and labor intensive, it makes the periodic updates very difficult. The rates have remained unchanged since 2008 and are artificially low. It has not moved with inflation, and property assessed values have gone up tremendously. Next slide, please.

Drafting and public outreach. Building on the work of many others, a draft Bill update was created in collaboration with the Department of Finance, Office of the County Attorney, Councilmember Evslin, and myself. Public outreach and stakeholder input has been largely positive. Valuable suggestions have been integrated into this draft Bill. Like I said before, we met with over a dozen farmers and ranchers. If you live on agricultural property, you have the homeowner's rate, which is lower than the agricultural tax rate, so we are taking care of those smaller farmers who are living on their property and farming. Next slide.

Subcommittee of the Chamber; this is some of the Zoom meetings that we had, and other Zoom meetings in-person—I was on Zoom. The next slide.

Structure of the Proposed Draft Bill No. 2875: Section 1, Findings and Purpose, Section 2, existing Agricultural Dedication Law, Section 3, new Agricultural Dedication Law, Sections 4, 5, and 6, necessary cross reference and housekeeping amendments, Sections 7 and 8, severability and Code codification, applicability and existing to dedication; and the last one, is affective upon approval in Section 10.

On my last slide before I transfer it over to Councilmember Evslin. The structure of the proposed new Agricultural Dedication Law, we have definitions, petitions, agricultural plan, petition process, dedication period, assessment, right-of-entry, and evidence of agricultural use. We will be able to move toward the opportunity of policing these ranchers and farmers to make sure they are in agricultural operation, and not just mowing their grass and keeping a well-manicured couple hundred-acre ranch. We are going to have dedication cancellation appeals and general provisions. I hope I gave you a good overview of the existing and our new agricultural dedication bill, and now, I would like to turn it over to Councilmember Evslin for the comparison on the key issues; existing versus proposed.

Councilmember Evslin: Thank you, Councilmember DeCosta. I am going to run through the comparison sheet here. The biggest change is that the current dedication, you commit to a ten-year or twenty-year dedication, and no matter what happens in that ten- or twenty-year period, you essentially cannot get out of it, and it is the biggest complaint we have heard throughout our public outreach, and probably one of the biggest barriers for farmers entering into the agricultural dedication program. If you are a sixty-five (65) year old farmer and you are not certain how much longer you are going to farm, you are not necessarily going to want to get into a ten-year dedication, because if you stop farming before the end of that dedication, you are maybe going to leave your heirs with this dedication that they need to fulfill, or get stuck with rollbacks, or on the sale of a property, the ten- or twenty-year dedications with strict rollback taxes and things, incentivizing abuse of the program. People sometimes buy a property, say you are half way through a twenty-year dedication and need to continue out those ten (10) years and you are going to comply with the bare minimum of the law, you are not a real farmer, but you hope to not get stuck with ten (10) years of back taxes, so you are going to barely comply with the program, basically just to not get those rollbacks. Plus, changes of use, things happen, and people do sometimes get stuck with massive rollbacks that they were not expecting because they did not comply with the law here. By far, the biggest change here is getting rid of the rollbacks, so you can cancel your dedication at any time, essentially for any reason. Upon the sale of the property, the dedications will automatically cancel and no penalty, then you can enter back into the program when you are ready to. In exchange for getting rid of the lack of rollbacks, the dedication period is going to go down to five (5) years instead of ten (10), or twenty (20) years. Part of the reason for this is to ensure that these properties are continually being monitored or recertified that they are actually farming. For the most part once someone dedicates their land, it should be relatively easy to rededicate it after five (5) years; they have done the bulk of the work with coming up with the farm plan, et cetera, so it should not be that hard for people to rededicate their land after five (5) years. Another change is once you dedicate, you have to record that dedication with the Bureau of Conveyances, and we have heard anecdotally about some farmers that go through the dedication process and they were not aware they had to record it with the Bureau of Conveyances and they do not get their dedication, because they did not record it; that extra step is currently required because of the potential for rollbacks—Real Property Tax has the ability to put a lien on that property, that is why you would need to go through this extra step to record the dedication. The new program will be getting rid of the rollbacks that allows us to also get rid of recording. The other big change is, moving from the soil rates to the

assessment at five percent (5%) of fair market value. Currently, we are going to get into some specifics on the soil rates later, but the soil rates for developed, about fifteen (15) years ago, based on the estimated output of a farm, and not on the market value, so at the time they are done, it was determined that a pasture makes roughly a quarter of what a diversified farm is going to be, so pasture rates are incredibly low, and diversified farm rates are four (4) times higher, and because those rates are so hard to develop and determine, they have never changed since they were developed, they did not change with inflation. A lot of people do not really understand what the rates are, where they come from, or how the whole system works, so it is confusing, it is cumbersome, it is hard to change. The new bill will just essentially do a ninety-five percent (95%) reduction in assessed value for all properties regardless of the type of farm it is, pasture diversified will get this ninety-five percent (95%) reduction. As Councilmember DeCosta said, this is revenue neutral when you do it islandwide, do the ninety-five percent (95%) reduction, it does not make the County any more money than the soil rate system currently generates. Next slide, please.

Another change is, right now you can dedicate land anywhere on Kaua'i. The new Bill eliminates the option of getting a dedication on Urban Zoned land unless it is County zoned, so State Land Use District Urban, unless it is County Agricultural or Open. The intention there is that if you have Urban State Land Use district land that is zoned at Residential, Industrial, or Commercial, that land is intended to be developed, and by ensuring that a landowner is paying essentially no taxes on that property allows them to land bank, and that means that type of zoning is not appropriate for what is happening on that land. Also, currently, there are small farmers that are trying to get agricultural dedication. If you have a parcel less than five (5) acres, there is this extra barrier to get agricultural dedication that you have to submit five (5) years of historical tax records; you will need to show your Schedule S for five (5) years to show that you have been a bona fide farmer for five (5) years. The new program eliminates that, so you can apply without those five (5) years of historic data, meaning a first-time farmer on a small lot can now get into the program when they could not before. One change in the new program is that if you are on a parcel less than five (5) acres and you have a house on that property, then you are not going to be able to dedicate the parcel, and the rationale for that is, if you live in a house on a parcel that is under five (5) acres, you are getting taxed at the Homestead rate for that, a huge percentage of the value of the land, the assessed value of your property is in that house, and you are not going to get dedication on your house anyway, so what happens anecdotally is that farmers goes through this process, they live in their house, they have a five-acre parcels, they go through the whole agricultural dedication process, and they find out that they are saving one hundred dollars (\$100) on their property taxes; it is not worth it in the administrative burden for the county to process these or the applicant. Once you start going to bigger parcel, if you have a house and ten (10) acres on land, then it makes more sense to dedicate the land. The new bill eliminates the option to get dedication if you have a house on the property, again, because of a lack of savings for those situations. Also, you have a ten- or twenty-year dedication, if you are trying to do any changes in use it is a really hard and cumbersome process, sometimes people end up falling out of compliance as they are trying to change use and potentially get stuck with the rollback, so the current system has no penalty if you are changing the use, you just cancel the dedication and reapply once you have changed the use. Next slide, please.

Currently, a major issue is that large landowners who have multiple lessees on their property need all of the lessees to sign off on the dedication, and all co-owners of the parcel, and this is because if you are having the potential of a large rollback, you need to make sure everyone involved in that property knows that you might get stuck with a rollback, so they all need to sign off on the application, sometimes it is hard, especially in inter-generational properties that have lots of owners, it can be really harder and impossible for everyone to sign off. The new process enabled because of the lack of rollbacks allows just a single owner to sign off on behalf of the rest of the property, so simplifying it for them. Also, the process for tenants on State land will be a little different in that, if you are leasing State land, the State is passing on the property taxes to the tenant there, because you cannot lease State agricultural land unless you are going to be farming it, then you do not need to go through this all these steps of applying for agricultural dedication. The County gets the State agricultural lease and will just give agricultural dedication towards these lessees who are leasing State land, which makes it a lot easier for them.

Lastly, in the Administrative Rules, there is a ratio of cows to acres. The new bill codifies that ratio, so you need four (4) acres per cow. It being in Administrative Rules, it is hard to enforce by codifying the ratio, we are ensuring that people are not going to be abusing it. As Councilmember DeCosta said, some folks out there with a couple of cattle on their parcel and complying at the bare minimum to get dedication on their property. This will ensure that when someone comes in to apply, the County will ask, "How many cattle do you have?" If they have three hundred (300) cattle, then they would be eligible for one thousand two hundred (1,200) acres of dedicated land, so it is easy to limit abuse on that front. Through the public outreach process, we recognized that Westside land is very different from other land on Kaua'i, that it is much dryer, and cannot support the same number of head, so the Bill does a 1:5 ratio for the Westside. Councilmember DeCosta, do you want to elaborate on the cow ratio?

Councilmember DeCosta: We have done extensive Statewide research with ranchers from across Hawai'i Island, Southside, Westside, Maui, South and West, and North. We have done extensive research on the Westside, we met with the Robinson family, and we tried to accommodate them with looking at zone one, that has been a Westside dry area like they do in Waianae, and we came up with a number that was workable. Of course, there could still be a little bit of a discretionary work with our tax appraiser when they go out there to look at how many animals are on the property and the Federal government does a good job of saying when we are in a drought, how much precipitation of rain we have, so we try to accommodate all ranchers. Of course, on the central and further north of the island, we have much more rain, and much more lush grass growth, so they should have no problem making the 1:4, and it gives our tax assessor a number when they go out there, they can quantify if the rancher is a bona fide rancher with the amount of cattle per acre. We did an upgrade on the goat and sheep, where it is now five (5) goats or five (5) sheep on an acre instead of three (3). Back to you, Councilmember Evslin, on the next page. We make a good team Councilmember Evslin.

Councilmember Evslin: I am not going to go into detail on the remainder of these slides. This is just showing the process to get agricultural dedication that is showing two (2) different processes; one for private landowners, one that is a lot simpler for tenants of State agricultural land, but this slide is for your

reference, if you folks have any questions on it, afterwards, you can ask the Department of Finance about the process. You can skip through the next slide also, Scott.

Councilmember DeCosta:

Can I add something really quick?

Councilmember Evslin: Just real briefly here, how the process works. Next slide. This just shows the breakdown on what the current soil rates look like. Essentially, when you get your dedication, you are marking out which areas are going to be pasture, and which areas are going to be diversified, and you are going to get your assessed valued will be two hundred twenty-five dollars (\$225) an acre for pastureland, and one thousand dollars (\$1,000) an acre for diversified land for a twenty-year dedication. Then, that simple assessment multiplied by the amount of acres, multiplied by the agricultural tax rate, or whatever tax rate you have for that property, it is not necessary that everyone is always getting taxed at the agricultural tax rate, you could live on the property, be getting homestead, and then you will get your assessed value per acre, times the number of acres, times your respective tax rate—that is the current system and how it works. Next slide, please.

This just shows current soil rates compared to the new Agricultural Dedication, and it really just a random sample, this is going to vary pretty heavily depending on the size of assessed value of the property, but say a two million dollars (\$2,000,000) agricultural parcel, one hundred (100) acres, the new program is just going to take five percent (5%) of that; so five percent (5%) of two million dollars (\$2,000,000) is going to be one hundred thousand dollars (\$100,000), so your assessed value for the entire parcel will be one hundred thousand dollars (\$100,000), then multiply that out by the tax rate; so divided by one thousand times six hundred seventy-five (675) gets us to six hundred seventy-five dollars (\$675) in property taxes for the entire parcel. Whereas you can look at the soil rates, in general, I think this holds relatively true across-the-board, in that because pasture rates are currently so low, that the average pasture property will go up under the new five percent (5%) assessment, and the average diversified agricultural—which is essentially all other agricultural—is going to go down. Again, the Bill as a whole is revenue-neutral, no extra money coming to the County, but pasture right now is taxed at a quarter ($\frac{1}{4}$) of diversified it is going to make them even, so you can see how that works on this. Next slide, please.

These are based on some actual parcels based on the actual assessed value of these parcels, and the assessed value you can see there. Again, diversified on average is going to go down, pasture is going to go up marginally, but we are talking about relatively low figures, you still get the ninety-five percent (95%) reduction in your assessed value, so when we talk about it going up, we are talking about a five-acre parcel getting taxed eighty-eight dollars (\$88) more under the new program for pasture. Next slide, please.

The public outreach process, as Councilmember DeCosta has said, it is pretty extensive, we met on the farms of at least a dozen different farmers, including met with various other stakeholder groups and the changes that we made based on the stakeholder outreach were, we first started with ten percent (10%) assessment rate, so a ninety percent (90%) reduction, and that was based initially thinking soil rates should have gone up by “x” amount over the last fifteen (15) years, by going to ten percent (10%), gets us to what soil rates actually should be at right now, if they have gone up by inflation. Early in the process, we realized that would be good, we want

to be revenue-neutral compared to the existing soil rates, so we increased that to ninety-five percent (95%) assessment reduction. Also, we heard from many ranchers that Westside land is a lot drier and can hold less cattle than other land on Kaua'i, so changing the ratio for Westside land. One of the things we learned in our outreach is that there is this new program called GroupGAP, which as I understand, is super strict food safety program, where if anyone wants to sell their produce to a restaurant or supermarket, they need to go through this program. They have an application that verifies all the information on their farm. Only real legit farmers are going to go through the hurdles of doing this food safety regimen; they get audited every year from the United States Department of Agriculture (USDA). In trying to reduce the paperwork burden for farmers, we said, if someone is GroupGAP certified, means they are selling to restaurants or supermarkets, they have gone through all this work, then we can eliminate some of the administrative burden for them on the application. Next slide, please.

Lastly, currently, there is something like one thousand six hundred (1,600) dedications out there with ten- or twenty-year time periods. The new bill will apply to them in every way except for the duration. If they pass, then they all will not have rollbacks. If they cancel, the assessments will change, et cetera, but they will be able to continue out their dedication period. If you are on year one (1) of a twenty-year dedication, you will have to go nineteen (19) years before you reapply. Part of the idea there was, we did not want to put every single agricultural dedication on a five-year schedule, meaning our Department of Finance will get slammed in five (5) years with all these renewals, so by keeping these folks on whatever their current dedicated timeframe is, ensures that we are having steady rollover year to year. Next slide.

As far as the Bill goes, this is a gigantic tax relief program, it is a gigantic Bill that is confusing. I think a normal bill that you see where you will see a little section deleted and another section added. This is essentially deleting the entire Agricultural Dedication program and coming up with a new program, so I think it will be hard for us to wrap our heads around it. It is certainly hard for farmers to wrap their heads around it. We want to make sure that we have enough time at Committee to do this bill justice. I think Councilmember Kualii and Council Chair Kaneshiro set the stage during the Housing Ordinance changes on how we should approach these big programs, which is take as much time as we need in Committee, get a lot of public input during that process, and entertain amendments as necessary by Councilmembers, and we want to take our time as we dive in here.

Lastly, during the public outreach, the thing we heard most from farmers was a concern from real farmers when not farmers are getting tax breaks. If you are out there "busting your butt" in the dirt every day, you do not want to see someone mowing their property and getting this tax break. One of the intentions here is by reducing the administrative burden on the County side, the Real Property Tax Division can spend more time on the ground ensuring that these properties are in compliance with the law. If they are not, they cancel their dedication as easy as that. That is the big picture. I know we rushed through this, hopefully you folks can dive into the PowerPoint on your own or right now, and any hard questions will be directed towards Reiko and Mike Hubbard.

Council Chair Kaneshiro: Thank you for that. We are at our ten-minute caption break, and we will come back for questions.

There being no objections, the meeting recessed at 3:36 p.m.

The meeting reconvened at 3:46 p.m., and proceeded as follows:

Council Chair Kaneshiro: Welcome back. We just had a very thorough presentation on the new proposed changes to the Agricultural Dedication program. Do we have any questions from the Members on it? This is just first reading, so if you need time to digest it and come back to it, that is okay as well. I have a question and it will be a follow-up. I do not think anyone has an answer to it. Could you let me know which properties are zoned Urban and are getting the Agricultural Dedication on it? That can come to me later. That would be my only question on this item for now. Are there any other questions from the Members? Councilmember Cowden.

Councilmember Cowden: My question would be for the Department of Finance. I want to say thank you, Reiko and Mike. Reiko answered some questions for me yesterday. I have already asked people to invite you, actually. There are different community groups and I think it might be good if the County can go out to them. I met with some farmers the other day. I do not want to skim by it without them being able to get that. Are we going to do house calls with this Bill?

There being no objections, the rules were suspended.

REIKO MATSUYAMA, Director of Finance (*via remote technology*): Yes. Since we have started public outreach maybe five (5) weeks ago, we have made ourselves extremely available. We have gone out to every corner of the island, basically, to talk to people. Even on top of that we have E-mailed with way more than that. If people responded, we took meetings, we interacted through E-mail or whatever correspondence they requested, we were basically at their whim, and we will continue to do so as this progresses through.

Councilmember Cowden: I am not suggesting that you did not try. We all have different outreach. My outreach, I have only come up with one (1) that there was a crossover. I have spoken to quite a few people. I think going out and explaining it might be good in some regional areas. I think that would be important. Jeff had some...did you hear Jeff Lindner's presentation earlier? I am hoping he can give you some of these tax map keys. You probably already know each other so well; I do not need to get in the middle of that. I think he is bringing up an interesting point. I do not have the same level of understanding that he does. I think on a one-on-one, I would like to ask about that. I think botanical gardens and food forests that are designed for seed, things like that, there are a few pieces that do not seem included in the collective list that might be worth talking about. I am glad we have six (6) weeks before we have our Committee Meeting so that we have opportunity to get the changes here and there. In general, I like it. Those are just my comments to you.

Council Chair Kaneshiro: Are there any other questions from the Members on this at this time? If not, while the rules are still suspended, is there anyone

in the audience wishing to testify on this item? Megeso, you know the rules. State your name for the record and you can start.

MEGESO-WILLIAM DENIS: I was happy to hear Councilmember DeCosta mention being truthful here today, as well as Councilmember Cowden, and to the Councilmember that mentioned bad actors. What I have heard today in this Bill and from previous speakers, this really is a global agenda. The previous speaker spoke about a global water system. What are we talking about, we are on Kaua'i? Let us talk about local water systems, not global systems. Food sustainability is also a global program. Let us be truthful to the people of Kaua'i County today. In 2012, the County of Kaua'i government forfeited the County decision-making and the people's voice to a nonprofit organization named ICLEI or the International Council for Local Environmental Issues, a nonprofit, nongovernmental organization now called Local Governments for Sustainability. It sounds pretty good does it not? It does not help the people of Kaua'i. This group has no accountability to the people as they take control of our food supply, water supply, minerals, and our natural resources. This does not serve the local people of Kaua'i County. ICLEI is a foot soldier for the United Nations Agenda 2021 and 2030. When the United Nations and their foot soldiers take total control of our island as they do with the world...the impact that you have not addressed with these programs is the impact to the homeowners, farm owners, et cetera. Their taxes are going to go up. Who is going to pay for these programs? The taxpayer. The people are already tapped out. No more taxes. We should be lowering taxes. We should be delegating our Council to terminating the agreement with ICLEI and the United Nations agenda and focus on local sustainability to improve the lives of the people of Kaua'i County, the people you serve. The Council works for the people, the people do not work for the Council.

Council Chair Kaneshiro: That is your first three (3) minutes. Does anyone else want to testify on this item? You can come back for your next three (3) minutes. I have Lonnie up next. Jeff, I believe you already testified on it earlier today. That testimony is going to be added to this item.

Mr. Lindner: So that was my quota?

Council Chair Kaneshiro: Yes.

Mr. Sykos: I am very appreciative of all the time that the various parties put in to working on this issue. I certainly agree that the existing Agricultural Dedication program is a detriment to agriculture. It is a model bill for how to prevent agriculture from occurring. The change that is occurring is good. I have issues, though, with this change in that I do not see how it is going to serve to prevent land banking. I do not understand how you can take land that is fallow in an operation and now this whole thing is a mess. If you are raising crops, you are not allowed to have fallow land. Fallow land is not agricultural activity according to this. If you are going to rotate crops during the rotation cycle, you are technically in violation of this. Depending on what types of crops you raise, you have to have fallow land. Pumpkin, sweet potatoes, et cetera, you cannot raise that over and over again. The land has to lay fallow before you can renew the crop. These types of things need to be worked on. Most importantly, what is missing in this, is...my question is...what is the vision? When this occurs, what does the Council and the Administration think the outcome is going to be as far as a change in agriculture on Kaua'i? In today's world, getting into

agriculture is really expensive. We are having this battle between wanting to have small farming activities, which would require a lot of them, and someone having the activity of being the collector of all that production, and the person that sold it. We need agriculture to export. I see this as a start, but not what is going to get us there. My time is up, thank you.

Councilmember DeCosta: Should I answer his question? No.

Council Chair Kaneshiro: Is there anyone else wanting to speak a first time? Megeso, you can have your final three (3) minutes.

Mr. Denis: The cost to the local farmers to retrofit their operations, because they are in alignment with the global program for the green new deal is going to force them into foreclosures, where the County, the State, or this global community will buy up their land. This is another example of moving the local community and people off of the island. I would like to know today, in this Chambers, if any ICLEI or local government sustainability people are present, or any of their subcontractors or employees are sitting in these Chambers today. Please make yourself known. Local food sustainability should be under the hands of the local people. The farming community, we have more land and more capabilities to be self-sustainable on our own. We do not need to be under a global governance community. We are an island. Seventy-two thousand (72,000) people. We have enough land, resources, and capability to take care of ourselves and make our own decisions. Why the County forfeited to a local governance community in 2012 is beyond my comprehension. I have been observing this for a long time. In 2007, it began with KIUC introducing their program. Smart Meters, 5G, all of these things are going to affect the people of this County including their health, safety, and welfare. Now on top of that, they are going to hit you in the wallet even more to help pay for COVID-19 that took our island. Where do you think they are going to recouperate the money from? It is going to come from the people, the taxpayers, to the point that they will have to move out. In your eClub Kaua'i, your technical community under Mark Zuckerberg, will take over the island, which he already has. It is time for the people of Kaua'i County to standup and serve ourselves. Reject the global governance, reject these global plans that you are putting forth, whether it be water, air, land, or whatever. All we need to do...there is no sea-level rise. That is another hoax. We need to take the toxins out of our air, water, and land, and to free our children to be children again.

Council Chair Kaneshiro: That is your final three (3) minutes. Thank you.

Mr. Denis: Thank you.

Council Chair Kaneshiro: Is there anyone else wishing to testify for a final three (3) minutes. Lonnie.

Mr. Sykos: As I was reading through this Bill last night, some of the things that I thought about were, I think you should reconsider treating animal pasturage the same as crops. The reason is, this is historic. In order to raise crops, you have to make improvements to the land. The improvements that are made are permanent, so long as the land remains in agriculture. To pasture cattle in our methodology, which is to turn them loose and let them run around, versus the European technology that they retain and use the cattle to fertilize their farmland on a regular basis. The valuable farmland is what gets fertilized and improved. The rest of the

farmland is not valuable because it has to remain idle for years in between each crop cycle. If someone is going to invest the money in raising crops, they are making an improvement for Kaua'i that is permanent. To run animals in a pasture, all you have to do is put up steel pins and wire up. There is not only no improvement, but the land is damaged because the cattle or sheep increases the amount of weeds as they eat the food and the weeds grow. Then we also have the problem of fecal contamination in our streams and beaches. I am not anti-pasturage, but in regard to developing agriculture that is going to feed us and provide export crops, you should be focused on growing food crops like Councilmember DeCosta talked about earlier versus putting pasturage up at the same level. Do we really want to be a giant cattle pasture? That is the best way to landbank that there is. For a few thousand dollars for steel pins and barbed wire, you can do acres and acres and throw a few cows in, and now you are in agriculture versus having to invest hundreds of thousands or millions of dollars to grow crops. Food for thought. Thank you.

Councilmember DeCosta: Can I address that?

Council Chair Kaneshiro: Do you have a clarifying question on his testimony?

Councilmember DeCosta: I want to clarify that I think Lonnie misinterpreted my personal explanation of the ranch versus farming, and the equitable amount that we are going to be assessing. Right now, Lonnie is saying that ranching is going to be...ranching and...

Council Chair Kaneshiro: Councilmember DeCosta, you can address that in your final discussion. If you have a clarifying question for him on his testimony, you can ask him a clarifying question.

Mr. Sykos: You have to put it in the form of a question.

Council Chair Kaneshiro: If not, you can address the equity portion in your final discussion.

Councilmember DeCosta: Did you see the Bill as encouraging more landowners to ranch versus farm?

Mr. Sykos: I saw that the intention of the Bill as stated as crop farming not ranching per se, but my observation from my life's experience is the way that this is structured, it encourages ranching over crop production because you do not need as much economic input to start ranching and it is easier to stop ranching and put the land into its next use like development, than it is to have a farm operation that has to be cleared out before the land can be used for something else.

Councilmember DeCosta: The existing Agricultural Dedication program has diversified lands which grows food and vegetable crops at a higher value than the ranch lands. With this new Bill, it is going to make them both even, so they both pay the same. It is not going to be an incentive anymore to just ranch. It is now incentivizing the rancher to actually grow diversified crops. The diversified crop grower is going to get a lesser rate. The rancher is going to have an increased rate.

Mr. Sykos: Excellent. Very good.

Councilmember DeCosta: Thank you for letting me explain that. I was getting worried. Thank you, Council Chair.

Council Chair Kaneshiro: Is there anyone else in the audience or on Zoom wishing to testify? Are there any final questions from the Members? Councilmember Cowden.

Councilmember Cowden: I am not sure if this question is for Councilmembers Evslin or DeCosta, or if it is for the Department of Finance. Building on what the previous testifier spoke on, on page 13, under item (b) for Dedication of Land For Agricultural Use, it talks about how they are determined to be a serious farm. It says that they would be using Good Agricultural Practices (GAP). I have not looked at it this year. The Food Safety Management Act was intense. The GAP was even more intense. My question would be for either Reiko or Councilmember Evslin, is that required or was that a good idea? Was that an idea that we can eliminate?

Councilmember Evslin: I am going to punt to Reiko and Mike here.

Ms. Matsuyama: You want to eliminate the...what we are doing to...

Councilmember Cowden: GAP...

Ms. Matsuyama: ...alleviate some of the requirements for those that are certified under GroupGAP?

Councilmember Cowden: This GAP, I am owning that I have not looked at it this year. In earlier years, not too long ago, these practices are so intense, and they move. It is a moving goal post. For example, you cannot have a toddler on your farm, a dog on your farm, a guy cannot pee on the farm, not being sexist, but that tends to happen and not be in a bathroom. Those kinds of things are a huge violation of GAP. When you look at what is required of that, it is in alignment in what I think Megeso was warning of, is how people can lose a farm...it is near impossible to hit these GAP standards if you are a family farm that is in alignment with nature. Can we take that out? Does it have to be there?

Ms. Matsuyama: To be clear, it is not a requirement for them to be certified under GroupGAP, right? What this is saying is, if you are certified, then you do not have to submit number 3, the marketing and management plan, and number 6, the evidence to verify that the land is in agricultural use. It is basically taking off some of the requirements of the application if you are certified under GroupGAP.

Councilmember Cowden: Okay. I am wondering, when we finish this up, if we are able to make that really clear. An example that comes to my mind, we had a large landowner here who put in a slaughterhouse at great expense. Then the GAP changed where you could not take the meat out of the slaughterhouse and put it in a

refrigerated truck if it did not go through a refrigerated corridor. All of that money was put in and then they could not do it. It is the chain of...I forget what it is called...as it moves, they have to be able to show that it never ever saw sunshine. If we tie someone to these impractical standards that are designed for products that are moved all around distances...I am hearing you say that you could just go past requirements 3 and 6, but I want to make it very clear that it is an option. I see it says, "may serve to fulfill the requirements of (b)(3) and (b)(6)," but that is an area that people could lose their farm over, or it is not even worth farming, if you have to really stick where the whole family cannot run and play on the farm. Let us see if she has anything to say, then I will let you go. That was kind of a question and a comment.

Councilmember DeCosta: I know how to answer that. That is a part of my Bill too.

Councilmember Cowden: Okay. Sure.

Councilmember DeCosta: We are saying that we are not recommending they get certified under GAP. We are saying that if a farmer goes out and gets it on their own, we are going to accept it. We are not going to push that on them. It is going to be their choice. It takes away the responsibility of us mandating it. We are not mandating anything.

Councilmember Cowden: Okay.

Councilmember DeCosta: Thank you for letting me answer that.

Council Chair Kaneshiro: I have a question. I know the answer to it, but I think maybe you folks should answer it. It was based on testimony saying that you cannot have fallow land dedicated, but from my understanding, if it is part of your agricultural plan where you have to fallow land, then that land can definitely be fallowed as a part of your agricultural plan and be dedicated. Can you just confirm that or deny it if I am wrong?

Ms. Matsuyama: Yes, I can confirm that the definition of substantial and continuous dedicated use has the customary fallowing periods and seventy-five percent (75%) of the active land clause. I think we do cover it in that definition.

Council Chair Kaneshiro: Are there any further questions from the Members?

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: In this case, I did hear some equity questions regarding cattle and diversified agriculture. I think the Bill does hurt the cattle folks more than it helps them, as far as taxes go. Right now, with the current dedication, they get assessed a lot less than a diversified agricultural farmer. That made sense because if you look at how many cattle you can raise on one (1) acre versus how much you can make with a diversified farm on one (1) acre, obviously a diversified farm is going to make a lot more money than being able to sell one (1) cow. I know we did not

want to get into the economics of who is a farmer and whether they are making money or not...I do not think we should. That all changes with weather, market conditions, et cetera. If you look at cattle farmers, their price of inputs has increase ten-fold. How much is a t-pin these days? It is probably eight dollars (\$8) or nine dollars (\$9). What was it ten (10) years ago? What was the price of cattle ten (10) years ago? It is probably the same price as it is now or even less. You cannot really compare and say that cattle is not productive or easier to do. There are a lot of factors in farming, and I think we all know that farming and ranching is hard no matter who you are. Trying to make money doing it is difficult, but I think we all have a passion and want to see...we all want to provide benefits to agricultural land that is in active production, whether it is farming or ranching because we all benefit from it. You see it as open space, it prevents urban sprawl, it provides food sustainability, provides jobs and a lifestyle, et cetera. Being a *paniolo* is a lifestyle. Raising cattle is a lifestyle. Being a farmer is a lifestyle. Raising pigs is a lifestyle. A lot of it is passed from generation to generation. I think overall in this Bill, what we did and what we knew needed to come was, we looked at the Agricultural Dedication process and we said, "How do we make it easier for the Administration to administer it, and how do we make it easier for the farmer or rancher to be able to do it so that it is not onerous on both sides?" I think this is what has come out of it. I am in favor of moving it forward and I am interested to hear if there are any additional comments or questions moving forward. Councilmember Cowden.

Councilmember Cowden: I will just make a very short comment. Where I am in agreement with you is to me, my goal, our goal as reflected in a number of these documents that we have put together like the General Plan Update and things, is what we want is food resilience on the island. The more that we can be growing our own food, and providing our own products, the better. When we have it so that small, localized farms can make it work...the best I can tell with this is that it does not preclude or punish a large export crop either. It seems like there is less of a market for that on our island anymore. This is addressing the small farmer more than it was previously. That is all good to me.

Council Chair Kaneshiro: Does anyone else have any final discussion?
Councilmember DeCosta.

Councilmember DeCosta: I want to let you know that this was over a year in the making. Councilmember Evslin, the Department of Finance, and I tried to find a way to incentivize, I do not want to say large landowners, but landowners in general. Usually, a farmer or rancher has land that is a little larger than a residential lot. With that being said, the old tax bill did not incentivize. It did not really give our assessor Terry, the freedom to go out and look at lands and actually have a variable that says you need to have "x" amount of cows on, "x" amount of acres, or "x" amount of sheep on "x" amount of acres, and hold them accountable to that. For example, ranching is different than homesteading tame animals. For example, let me let you folks know this since I am a rancher. When I ranch, I have let us say forty (40) heads of cattle. At least thirty-five (35) are mothers who produce calves that I sell. You could have that same thirty-five (35) mothers on a ranch in Kilauea and let them live out their twelve (12) to fifteen (15) years and never have a bull on the property, never have a calf, and they will qualify for that agricultural tax break. They are raising pets. We wanted to incentivize an industry that raises food for our people to eat. That is the purpose of this whole tax

bill. If the large landowner cannot ranch the land themselves, there are many small ranchers that would love to lease one hundred (100) acres or two hundred (200) acres. We are hoping that all of the large landowners on Kaua'i would like to have some of their lands leased to smaller farmers. That is the way we are going to promote agriculture and become more sustainable on Kaua'i. Councilmember Evslin, I know we did not touch on this, but I think we should...there are a lot of ranchers who asked about horses. A horse does not qualify you to have an agricultural tax rate, but it is a part of your operation, and it can sit on the land and have an acreage amount dedicated to them in your plan. We do not qualify a one hundred (100) acre ranch with three (3) riding ponies a viable ranch that deserves a tax break. Councilmember Evslin, did we cover everything?

Council Chair Kaneshiro: Councilmember Evslin.

Councilmember Evslin: Yes, I think we covered everything about the Bill. I think there is probably a lot more to talk about at Committee. Again, it is a big Bill and there are a lot of moving parts here. I am looking forward to continued and future robust dialogue on it. I do just want to send out my appreciation to Councilmember DeCosta for co-introducing this and especially the Department of Finance, in particular Reiko, Mike, and Terry for just a tremendous amount of work here. Councilmember DeCosta mentioned in the beginning, Jenelle. Jenelle has been pretty heroic here. I would also like to thank the Office of the County Attorney as well. This was really more work than most bills that I have been involved in regarding the level of complexity and the reworking of an entire program. I am looking forward to more conversation and I appreciate the dialogue that we had today. Thank you.

Council Chair Kaneshiro: Does anyone else have any discussion? If not, roll call vote.

The motion for passage of Proposed Draft Bill (No. 2875) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for August 3, 2022, and that it be referred to the Finance & Economic Development Committee was then put, and carried by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

BILLS FOR SECOND READING:

Bill No. 2856 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 11A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ENVIRONMENTAL IMPACT FEES (*County of Kaua'i Planning Department, Applicant*) (ZA-2022-5)

Councilmember Carvalho moved to approve Bill No. 2856 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Kualii.

Council Chair Kaneshiro: We received no written testimony on this item. Are there any questions on this item? Is there anyone in the audience wishing to testify on this item? This is Bill No. 2856 relating to Environmental Impact Fees. Is there anyone on Zoom wishing to testify?

There being no one present to provide testimony, the meeting proceeded as follows:

Council Chair Kaneshiro: Is there any final discussion from the Members? If not, we will take a roll call vote.

The motion to approve Bill No. 2856, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL – 7,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Bill No. 2857 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ADDITIONAL DWELLING UNIT (*County of Kauai Planning Department, Applicant*) (ZA-2022-6)

Councilmember Kualii moved to approve Bill No. 2857 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Carvalho.

Council Chair Kaneshiro: We received no written testimony on this item. Are there any questions from the Members? Is there anyone in the audience or on Zoom wishing to testify?

There being no objections, the rules were suspended to take public testimony.

Mr. Lindner: This is more of a question for the ADU. I understand that agricultural parcels cannot have ADUs. What I am not clear about is in Lihu'e, there are Urban land and there is Urban Agricultural land. Does that Urban qualify for...first, does it qualify for an ADU, maybe an ARU...is the agricultural land that is on Urban looked at differently than agricultural land that is not zoned Urban? I do not know if you folks have an answer to that.

Council Chair Kaneshiro: We can follow up with you after the meeting on your questions. That does not really have anything to do with the Bill in front of us now.

Mr. Lindner: Right, but it mentions agricultural land in the Bill. It mentions ADUs and it mentions agricultural land.

Councilmember Cowden: Let me find that.

Mr. Lindner: It is towards the front. That is what I am curious about...the agricultural part. My understanding is that you cannot have an ADU on agricultural land.

Council Chair Kaneshiro: Is anyone else wishing to testify? Is there anyone on Zoom?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Is there any final discussion from the Members or questions? Do you have a question or discussion?

Councilmember Cowden: Could I talk to either Ka'āina or Mike Dahilig? I think I get what he is asking. In some of the language, where we are seeing in the Līhu'e area, there is a big Urban zone that was deemed by the Land Use Commission in 1994, in that land use zone, there is still agricultural land. We would be doing multi-family and multi-timeshare units. What this Bill is, just for clarity...this Bill is to stop the Environmental Impact Assessment on multi-family...

Council Chair Kaneshiro: We are on Bill No. 2857.

Councilmember Cowden: Okay, I am on the wrong one. This is about the parking. This is just about parking.

Council Chair Kaneshiro: It is about non-standard roadways.

Councilmember Cowden: Let me do ask you this, Ka'āina, when we do have that Urban area in Līhu'e that does have agricultural-zoned land. When you look at the overlay of what the Land Use Commission has in place, that is Urban and then you have agricultural land in that overlay, what does that mean?

There being no objections, the rules were suspended.

KA'ĀINA S. HULL, Planning Director (*via remote technology*): This Bill does not affect agricultural land within the State Land Use District (SLUD) Urban. I just want to be clear, this has nothing to do with agricultural lands regardless of them being in Urban, SLUD Urban, or State Land Use District Agriculture. To answer the question, Councilmember, for lands that are zoned agriculture, but still have a State Land Use Urban designation, the agricultural standards still apply, it is just that the

State and the County, through its General Plan process or community plan process has identified that area of land to be appropriate to up-zone to a Residential, Commercial, or Mixed-Use District. It is incumbent upon the landowner or in some cases the County, to do the up-zoning process. It just has not gone through that up-zoning process.

Councilmember Cowden: Okay, thank you. That is good. This is about the width of the roads, which I am good with. I do not have any questions. I am clear on it.

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Is there any final discussion from the Members? If not, roll call vote.

The motion to approve Bill No. 2857 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL – 7,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Bill No. 2858, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO A PLANNING DEPARTMENT TRANSIENT VACATION RENTAL PROGRAM ACCOUNT (*County of Kauai Planning Department, Applicant*) (ZA-2022-7)

Councilmember Kualii moved to approve Bill No. 2858, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Chock.

Council Chair Kaneshiro: We received no written testimony on this item. Are there any questions from the Members? Is there anyone in the audience or on Zoom wishing to testify?

There being no one present to provide testimony, the meeting proceeded as follows:

Council Chair Kaneshiro: Is there any final discussion from the Members? If not, roll call vote.

The motion to approve Bill No. 2858, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL – 7,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Kaneshiro: Can you read us into Executive Session?

EXECUTIVE SESSION:

ES-1077 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, requests an Executive Session with the Council, to provide the Council with a briefing regarding the Adolescent Treatment and Healing Center located off of Ma'alo Road and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Ms. Fountain-Tanigawa: Council Chair, we have two (2) registered speakers for this item. The first one is Tracy Fu, followed by Jade Battad.

Councilmember Carvalho moved to convene into Executive Session for ES-1077, seconded by Councilmember Chock.

Council Chair Kaneshiro: We did receive written testimony on this item. We will take our public testifiers.

Ms. Fountain-Tanigawa: The first speaker is Tracy Fu, followed by Jade Battad.

Council Chair Kaneshiro: We will go with Jade first.

There being no objections, the rules were suspended.

JADE WAI'ALE'ALE BATTAD: *Aloha* everyone. I am here to speak about the Adolescent Treatment and Healing Center. Twenty (20) years ago, it was the brainchild of Mayor Baptiste. His son and my daughter were in treatment and he and I were in the waiting room on that day. I will never forget it. It has taken a village to heal, love, and help my family. Councilmember Chock, you have been a part of that village and I am forever grateful to you for it. My daughter is a proud recipient of that today. I stand here to give back to that village. The Baptiste Administration gave birth to the idea. The Carvalho Administration blessed the building for which I was a part of. I was there when Not In My Back Yard (NIMBY) was born, and it was conflict after conflict and public meetings. I was there when it was the recipients of the Drug Court on land that was covered with guinea grass. I was there when it was the adolescents themselves. I was there on the blessed day that we blessed that building. But, it has sat there empty. I have no opinion to it being used as a COVID-19 housing site. This Administration has failed us. This

Administration has failed our *keiki*. They were going to use it for offices for the Office of the Prosecuting Attorney. That is not okay. That was not the intention of the land being given. I have no connection to Warren Haruki. I have no alliances to Grove Farm. None. Warren has shown me his true colors in giving the land, purpose, and the way it was given for the kids and in upholding that for some time now in talks going back and forth between he and the County. He has his hand on the button. He could have done litigation at any time. That was not the optimal choice, because our kids would be the ones who suffer. He has shown me his heart and where his passion is. It is for the *keiki*. If any of you have not been up that site, I encourage and ask you to please go. I did not know what was transpiring in this Executive Session, but Monday on my 30th anniversary, I was there at the treatment center, praying and crying. I did not know that this was happening. God knew. God took me there and I was there on the property. I am not going anywhere. I will sit here until 10:00 p.m. if I have to because the kids need to see me here. They need to know that I see them and that I am not going anywhere. I am going to keep on speaking out about this until you all do what you have been elected to these chairs to do. Do right by our kids. They need it. They need it. We are in crisis.

Council Chair Kaneshiro: Jade, sorry, that is your first three (3) minutes. Tracy, did you want to speak? Jade, you can come back.

TRACY FU: Hi everyone. I was born and raised here. Last year on August 20th, my son had to take his brother out of his truck, dead from Fentanyl. My son sat on the side of the road for eight (8) hours in his truck, dead. I am asking why after I wrote a letter in October to each one of you, I carbon copied (cc'd) a whole bunch of people. I sent it off to Honolulu and to the newspaper. Why does it still sit there empty not even with a human being treated for drugs? Maybe if they want to sleep there overnight with COVID-19 it is okay. My son died. He had a nine-month-old daughter that I am still taking care of. I love her very much. She is my Band-Aid. How many kids do you have, Council Chair Kaneshiro? Two (2) beautiful children, right? Councilmember Chock has kids. Councilmember Carvalho, you have kids. Councilmember DeCosta, you have kids. What hurts...I will tell you what hurts is the fact that my real dad, Donald and your dad, were good friends and played. My grandmother drove you and most of all of Kapa'a School to school. My son's family has fed this island with the beef and the ranchers. We have been here for five (5) generations and my son, this community, the Administration failed my child that was going to live here for the rest of his life. He was going nowhere. He was going to stay here because this is where he wanted to be. He was not going to run off to anywhere else. He loved his lifestyle here. He wanted to raise his daughter here. This is what his plans were. The fact that it is not even open, talk about a slap in my face, his face. This is my son, Earl Thronas, Jr. That is his grandmother. She was sitting in that chair, right there. We are sitting here with no answer.

Council Chair Kaneshiro: Sorry, Tracy, that is your first three (3) minutes. I will have Jade come back and then you can continue after her.

Ms. Wai'ale'ale Battad: I say to all of you, Council Chair Kaneshiro, you have two (2) daughters, Everett and Ellie. Mayor, you have grandchildren. The statistics are not in our favor. The foundation you lay today is going to ensure the

life and the Kaua'i that we have tomorrow. This is water from Mount Wai'ale'ale given to me by Kumu Hula Troy Allen Hinano Lazaro. Our *kuleana* to this *wai* is our portion of the stream. Our *kuleana* is to make sure we keep our *lepo* out of this water. The water flows down to our neighbors below us. It was our job to make sure that we keep the water clean, so we did not put our *lepo* in our water. We have got to make sure that that *kuleana* or responsibility to our neighbors downstream. Our kids or grandkids...I have two (2) grandsons. I am not willing to risk either one of them. Drugs is in my backyard. It is in your backyard too. Each of us feel the effects of it. I implore you, I beg you, to go into Executive Session and to hit a homerun for our kids. Do right by them. You have the chance right now. I beg you. This is not about Warren Haruki and Grove Farm. It is not even about the Mayor. You are in those chairs and put there by the people, by us, to do right for us. Our kids need to be seen. We built the building. It stands there. We blessed it. We told them, "you matter," but we never filled it. They need to hear us and see us say, "I see you, you matter. You matter." I beg you. Please do the right thing. This, this is our why, this *wai*. In 'Ōlelo Hawai'i, there is no word for hate. There is no word for enemy and no word to be rich. To be rich, they say you are *waiwai*. You have that water that comes from that source. It is my *kuleana* to talk about it because my last name is Wai'ale'ale. I have that *kuleana*. Please do right. Please do right. Leave a legacy of richness for our community and *keiki*. You will be *waiwai* because of it. Councilmember Chock, we are a part of Leadership Kaua'i, we have a quorum here today for the Class of 2010, right? I was taught there to model the way. Model the way, that is what I am doing here. I am showing Kaua'i and the *keiki* that I will model the way.

Council Chair Kaneshiro: We have a clarifying question from Councilmember Cowden.

Councilmember Cowden: You are saying "do the right thing" so we do not have another Austin or another tragedy like that. I am very sorry for your tragedy. You are aware somewhat of what we are looking at. In your view, what is the "right thing?" What does the "right thing" mean to you?

Ms. Wai'ale'ale Battad: Let the land go back to Grove Farm. Hawai'i Health Systems Corporation (HHSC) has no line item in their budget for running a treatment center. There are no moneys budgeted in their budget for a treatment facility.

Councilmember Cowden: Are you committed to continue to help make sure something happens?

Ms. Wai'ale'ale Battad: We will get it done. They say, "If you build it, they will come." It is built. It is built. They are coming. There is a need. You know it and I know it. I am a minister. I am doing these funerals. I am on that end with the parents. I get called every week for funerals for suicides...

Councilmember Cowden: Thank you.

Ms. Wai'ale'ale Battad: Thank you for responding to Tracy. So many people got that E-mail and you were the first to respond. It shed a different light where you are concerned in my eyes. Thank you.

Council Chair Kaneshiro: Okay, thank you. Tracy, you can have your final three (3) minutes.

Ms. Fu: Councilmember Cowden, to answer your question, if you would ask me the same question, it would be to release it and give it back to Grove Farm. Let someone else do something. The Administration right now does not even have a line item budget for this. There is nothing. I looked the day after the wonderful Zoom presentation was up. I wanted to make sure the moneys were there. It was not. That showed me that no one cared. Please, just give it back. We can figure something else out. I am not going anywhere. I am going to be here. I see you all the time. I know I make you uncomfortable and I do not mean to do it, but when you see me, I am a constant reminder. There are a few of us out there who have lost their kids to this drug or some kind of other drug. We see each other in the store and in the community. I will proudly wear this scar for the rest of my life, because he was my beautiful son. So help me, you better do your job. I will be here. I will. I will be here watching and paying attention. With me, I could have easily brought seventy-five (75) people. My granddaughter is the sixty-ninth (69th) grandchild in the Pa 'ohana. Sixty-ninth (69th). She is a Thronas and she is a Pa. I could have easily filled these seats with all of her relatives or anyone who was hurt or is feeling a distrust for what has happened. I am asking all of you, please put yourself in my seat. I do not want to go through this with my grandchildren. I do not want my kids to have to deal with this with their own kids. This sucks. This absolutely sucks. Some days I cannot peel myself off of the flipping bed because it hurts so bad. Please, figure this out. Please. Thank you.

Council Chair Kaneshiro: Lonnie.

Mr. Sykos: I am so sorry for Jade's and Tracy's family's loss. I have sat here for fifteen (15) years listening to *waha* about this youth adolescent treatment center. There is no excuse that this County developed that center, got the land for free from Grove Farm, and then budgeted zero dollars (\$0) to operate it. I accuse none of you personally of anything, but this County government is an utter abject failure to the children. Your children. I gladly will call myself a *haole* and say that I am not responsible for your decisions that murder your kids. The failure to fund that clinic is stunning and was stunning at that time. I do not know if this session is about the building and the relationship with Grove Farm, which if the County still has one, makes Grove Farm like saints the way they were treated by the County, or whether or not this is about the settlement that we are going to end up paying to the contractor. Either way, these ladies are right. I was an ad hoc member of a committee in Hāna, County of Maui to turn our community health center from a State facility into a self-funded community health center for the sole reason that the State did not have enough money to run the center in Hāna. It got privatized. I am fully aware of all the limitations that the State has in regards to money and

manpower. The State does not have the capacity or the capability to run this center. They do not have the people on staff, they do not have the expertise, and they do not have any experience. We, unfortunately, apparently made a big mistake in either building too many beds or not enough beds at the Adolescent Treatment and Healing Center. If this is about giving the land back to Grove Farm, give it back. We have no business having that property having broken our contract.

Council Chair Kaneshiro: That is your first three (3) minutes, Lonnie. Is there anyone else in the audience wishing to speak on this item?

Mr. Sykos: My final two cents is this. This County willfully violated the contract that we had with Grove Farm. We need to give the property back. That was our agreement. That was my word as a resident of this County. I am a liar with Grove Farm. That is the truth of it. All sixty thousand (60,000) or so of us are liars, because we willfully violated our agreement with Grove Farm and have not given them their property back. It is utterly absurd and offensive. Listen to these ladies before you have far more people out here weeping over our failures.

Council Chair Kaneshiro: Thank you.

EARL THRONAS, JR.: I know you heard from my mom, my aunty, and people who have not gone through the experience of not having a treatment center here. My brother and I been to treatment centers and have been to facilities off-island. Of course, there is community outreach and service that we give back to the community. They try to re-link us to being contributors to society instead of causing wreckage. It is not the same connection as when you are here on your home island. It is hard as an adolescent to watch kids from O'ahu get visits from their parents every weekend and a kid from Kaua'i has to sit back, wish, and hope that you get a monthly visit that someone has to pay for. Sometimes it was my mom out-of-pocket. I strongly just ask that you give it back to Grove Farm and let the purpose of the land be fulfilled, so that no one has to go through what I went through and find their brother deceased. I do not wish that on anyone. I do not blame anyone. I know as an adolescent, the impact is much greater when you are in recovery. It would be a game changer to have it here on Kaua'i and have adolescents giving back to their own community that they are coming home to. They could go down the road and be able to see the wall that they painted because it was full of graffiti or that they planted plants there to beautify that part of the island. They will give back instead of looking at every place you have been and thinking that you destroyed this place, destroyed that place, or did this bad thing. You need that connection to your community. That is it. Thank you.

Council Chair Kaneshiro: Is there anyone else in the audience or on Zoom wishing to testify? Council Vice Chair Chock.

Councilmember Chock: Thank you. I have a question for Matt Bracken. Give us a little direction here, given the agenda item that we have for Executive Session, if you could provide, some of the people have been here all day waiting, what it is we are covering and the scope of what it is the Council's action

may be, if possible. I realize it is an Executive Session. Please share whatever you can.

MATTHEW M. BRACKEN, County Attorney (*via remote technology*): The Executive Session item is just a briefing in that it is not a call to action of any sort. Generally, when the Council is making a decision, the Executive Session language is different. When the Council is making a decision on something, the language is different for the Executive Session. This item is just a briefing on the overall progress to date. Then also, there have been recent developments, which includes a lawsuit that was filed this morning by Grove Farm. It is really just a briefing on everything that has occurred as recent of this morning and to inform the Council of what has occurred. It is just a briefing. It is not really a call to action on the Council's behalf.

Council Chair Kaneshiro:

Councilmember Cowden.

Councilmember Cowden: Are you saying that we are not in a position to make a decision on anything today? Is that what you are saying? Can we make a decision on what we might choose to make a decision on?

(Councilmember Euslin was noted as not present.)

Mr. Bracken: A formal decision, no. The Council is not in a position to make a formal position to make a decision today. It is really a briefing. I believe the body in the briefing can kind of decide on a direction they would like to go on certain things, but an exact decision, the public would need to be made aware of, that is not something that is in front of the people today. Generally, when the Council is making a decision on something the language is different. I am not sure if that helped.

Council Chair Kaneshiro:

Councilmember DeCosta.

Councilmember DeCosta: Matt, I was kind of under the impression, by two (2) of our female speakers, Tracy and Jade, that they are counting on us as the Council to do what is right. I want to be true to my local sisters on Kaua'i. You are telling us today that we are not making that decision, but there is a potential that we can make that decision? I want them to understand what this is about if you can share that with them.

Mr. Bracken: I think it comes down to various authorities. The Council has responsibilities for certain. When there are statements like "Give the property back to Grove Farm," the disposition of public property falls under the Director of Finance. The Director of Finance has the authority to dispose of County assets including real property. That is where that authority falls to for disposition of property. The Council, generally, as the legislative body, passes the laws and the budget. You are the purse strings. The Administration administers those laws and the rest of the functions of the County. We are talking about a lot of different responsibilities, which the briefing will cover a lot of that. Different portions of the County have responsibilities over different things. There was a recent lawsuit filed this morning. Generally, the Council has a lot more authority over lawsuits because we generally come to you for settlement authority with those lawsuits. I do not know

if that helps or gives you much direction either. We are talking about lots of different departments having different responsibilities and with this, a lot of responsibilities fall on the administrative side. The authority that falls on the Council side is what we are going to talk about in the Executive Session.

Councilmember DeCosta: Thank you.

Council Chair Kaneshiro: Council Vice Chair Chock.

Councilmember Chock: Matt, the conveyance of property, does that fall within the Council's purview?

Mr. Bracken: No, it does not. The Director of Finance has the authority over the conveyance of property. Generally, the purchase of property falls under the authority of the Council, because we are talking about spending funds, purse strings, budgetary funds, et cetera. The disposition of that property that falls under the Director of Finance on the administrative side.

Councilmember Chock: Thank you.

Council Chair Kaneshiro: Councilmember Carvalho, then Councilmember Cowden.

Councilmember Carvalho: I just wanted to clarify that again. My understanding is that we are going to hear the Executive Session to be able to make a decision.

Council Chair Kaneshiro: The Executive Session is for a briefing and consultation, and was never for a decision.

Councilmember Carvalho: It is just to listen and hear. I understand that and begin the next steps to making that decision. Not a tough decision, the right decision. That is what I felt, and I just wanted to say that for me. I am hoping that I heard you, Matt, you said that the authority is going to the Director of Finance to make as far as the facility. We will talk about it. I am hoping...we will make a decision.

Council Chair Kaneshiro: Councilmember Cowden.

Councilmember Cowden: Is it possible that we get our briefing and then we can have the Managing Director and Director of Finance in our meeting, so we can talk more robustly? I see them right there. They are sitting there listening right now. What prohibits us from having our conversation and then bringing them into the discussion? Can we do that?

Mr. Bracken: There are certain discussions that should happen in the open. That is my role when we go into Executive Session. The purpose of the Executive Session is to talk to me, so I can brief you on my opinion on certain things that have occurred, may occur, or are occurring. There are certain things and

discussions that would need to happen in open session. That is the purpose of the Sunshine Law, so that the people can see government in action to understand the process, hear the process, et cetera. That is why the Sunshine Law exists. There are certain discussions that will have to happen in open session. What I am prepared to talk to you today would need to happen in a closed session. Future conversations should happen in open session. As of today, everything I am prepared for would need to happen in Executive Session in a closed session.

Council Chair Kaneshiro: Councilmember Kualifi.

Councilmember Kualifi: Matt, although we are not making any kind of official decision today, you will brief us, and based on what we hear, we will respond and react, and you will take that information and you will bring it back to the Administration, is the correct?

Mr. Bracken: Yes, that is correct.

Councilmember Kualifi: If it is a decision for them to make, at least they will have our input.

Mr. Bracken: That is correct. The briefing is for that exact purpose. Either a determination or position where the Council as a body feels with what I am going to present and any sort of action that the Council wants to take further, we can do further Executive Sessions to discuss it further. If it involves action by the Administration, it would be taking that message back to the Administration.

Council Chair Kaneshiro: Councilmember Carvalho.

Councilmember Carvalho: Does the Council approve legal documents to approve deed transfers? I thought that was part of our role.

Mr. Bracken: The Council generally signs off on a lot of real property documents. Usually, we are talking about purchase documents. The Council also signs off on easements. There is an ordinance that requires the Council to sign off on any easements over a one-year period. The transfer, when real property is being transferred out of the County's possession, that authority rests with the Director of Finance. The Council does approve a lot of legal documents and they sign off on a lot of documents, too. It kind of depends on what the document is and what the Charter requires or what an ordinance requires. It all depends on the documents.

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Kaneshiro: Are there any further questions from the attorney? We are going to be taking this Executive Session at the end of the day, because no one can be in the room when we do the Executive Session. The item was written as a briefing. It was a briefing for us to get a status on where things are at. I know we received documents today that might make it more of a reason to go into

Executive Session. I know Matt will brief us on the items that we received today and where we are at. Are there any further questions?

The motion to convene into Executive Session for ES-1077 was then put, and unanimously carried (*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Euslin was noted as silent (not present), but shall be recorded as an affirmative for the motion*).

Council Chair Kaneshiro: The motion is carried. Not seeing or hearing any objections, this Council Meeting is now adjourned. We do still have Committee Meetings after this.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 4:58 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jade K. Fountain-Tanigawa', with a long horizontal flourish extending to the right.

JADE K. FOUNTAIN-TANIGAWA
County Clerk

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